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सं. 17]

नई दिल्ली, अप्रैल 26—अप्रैल 26, 2008, शनिवार/वेन 31—वैशाख 6, 1930

No. 17] NEW DELHI, APRIL 26—APRIL 26, 2008, SATURDAY/CHAITRA 31—VISHAKHA 6, 1930

इस भाग में पत्र कुछ संख्या दी जाती है जिससे कि वह कुछ संकलन के रूप में पढ़ा जा सके।

Separate Paging is given to this Part in order that it may be filed as a separate compilation.

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांख्यिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

निधि और न्याय मंत्रालय

(निधि कार्य विभाग)

नई दिल्ली, 10 अप्रैल, 2008

क्र.अ. 876.—उद्देश्य, श्री मुथुकृष्णन रविंदरान, सीनियर अधिवक्ता को दिनांक 9 अप्रैल, 2008 के अधिसूचना से दो वर्ष की अवधि के लिए वेनी में भारत के अवर महासंस्थानिकर को पद पर नियुक्त किया है।

[फा. सं. 18(4)/2008-न्यायिक]

एम. ए. खान युसुफी, संयुक्त सचिव एवं सचिवी कार्यालय

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

New Delhi, the 10th April, 2008

S.O. 876.—The President is pleased to appoint Sh. Muthukrishnan Ravindaran, Senior Advocate, as Additional Solicitor General of India at Chennai with effect from the afternoon of 9th April, 2008 for a period of two years.

[F. No. 18(4)/2008-Jud.]

M. A. KHAN YUSUFI, Jt. Secy. and G. C.

कार्यिक, लोक विभाग तथा वेनी मंत्रालय

(कार्यिक और प्रशिक्षण विभाग)

नई दिल्ली, 17 अप्रैल, 2008

क्र.अ. 877.—केंद्रीय सचिव कार्यालय दिल्ली निम्नलिखित स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के तहत पठित धारा 5 की धारा-का (1) द्वारा प्रस्तुत सचिवों का प्रवेश करते हुए अखण्डित प्रवेश राज सरकार के मुख विभाग की अधिसूचना सं. एचएनवी(ए)-42/08 दिनांक 8 मार्च, 2008 द्वारा प्राप्त सभ्यता से भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 302 और 307 सचिवी आयुष अधिनियम, 1959 (1959 का अधिनियम सं. 54) की धारा 25 (1ए), 25(1बी) और 27 (2) एवं (3) के अधीन देवमाली पुलिस स्टेशन में एवं माला सं. 24/07 और भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 121, 506, 511, 34 सचिवी विधि-विज्ञान विभाग (विभाग) अधिनियम, 1967 (1967 का अधिनियम 37) की धारा 10 एवं 13 तथा आयुष अधिनियम, 1959 (1959 का अधिनियम सं. 54) की धारा 25 (1बी) के अधीन इलाहाबाद पुलिस स्टेशन में एवं माला सं. 253/07 तथा अखण्डित अखण्डित से संबंधित अखण्डित प्रमाणों, दुप्रेरणों और पत्रों तथा उक्त मंत्रालय के अखण्डित में

अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारों का विस्तार सम्पूर्ण अरुणाचल प्रदेश राज्य पर करती है।

[सं. 228/9/2008-ए.पी.डी.-II]

चंद्र प्रकाश, अवर सचिव

**MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS**

(Department of Personnel and Training)

New Delhi, the 17th April, 2008

S.O. 877.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Arunachal Pradesh, Home Department, Itanagar vide Notification No. HMB(A)-42/08 dated 8th January, 2008 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment in the whole of the State of Arunachal Pradesh for investigation into the Deomali Police Station case No. 24/07 under Sections 302 and 307 of the Indian Penal Code, 1860 (Act No. 45 of 1860) read with sections 25(1A), 25(1B) and 27(2) and (3) of Arms Act, 1959 (Act No. 54 of 1959) and Itanagar Police Station case No. 253/07 under Sections 121, 506, 511, 34 of the Indian Penal Code, 1860 (Act No. 45 of 1860) read with section 10 and 13 of the Unlawful Activities (Prevention) Act, 1967 (Act 37 of 1967) and Section 25(1B) of Arms Act, 1959 (Act No. 54 of 1959) and attempts, abetments and conspiracies in relation to or in connection with the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/9/2008-AVD-II]

CHANDRA PRAKASH, Under Secy.

भारतीय रिजर्व बैंक

मुम्बई, 3 अप्रैल, 2008

क्र.आ. 878.—भारतीय रिजर्व बैंक, अधिनियम, 1934 (1934 का 2) की धारा 42 की उपधारा (6) के खंड (क) के अनुसरण में भारतीय रिजर्व बैंक एतद्वारा निदेश देता है कि उक्त अधिनियम की दूसरी अनुसूची में निम्नलिखित बैंक को समाविष्ट किया जाए अर्थात्:

"पुदुचैरि भारथियार ग्रामा बैंक (संघ शासित क्षेत्र पुदुचेरी)"

[क्र.आ.सं. 10410/03.05.344/2007-08]

वी. एस. दास, कार्यपालक निदेशक

RESERVE BANK OF INDIA

Mumbai, the 3rd April, 2008

S.O. 878.—In pursuance of clause (a) of sub-section (5) of Section 42 of the Reserve Bank of India Act, 1934 (2 of 1934), the Reserve Bank of India hereby directs the

inclusion in the Second Schedule to the said Act of the following bank namely:

"Puduvai Bharathiar Grama Bank (Union Territory of Puducherry)"

[RPCD.CO.RRB.No.10410/03.05.344/2007-08]

V. S. DAS, Executive Director

कार्यालय, मुख्य आयकर आयुक्त,

जयपुर, 10 अप्रैल, 2008

सं. 02/2008-09

क्र.आ. 879.—आयकर नियम, 1962 के नियम 2 सी के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43 वां) की धारा 10 के खण्ड (23सी) की उपधारा (iv) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निधिरण वर्ष 2007-08 एवम आगे के लिए कथित धारा के उद्देश्य से "प्रज्ञा चैतन्य फाउण्डेशन ट्रस्ट, जयपुर" को स्वीकृति देते हैं।

बरातें कि समिति आयकर नियम 1962 के नियम 2 सी के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23सी) की उपधारा (iv) के प्रावधानों के अनुरूप कार्य करें।

[क्र.आ.सं. 10410/03.05.344/2007-08]

एस. सी. कपिल, मुख्य आयकर आयुक्त

**OFFICE OF THE CHIEF COMMISSIONER OF
INCOME TAX**

Jaipur, the 10th April, 2008

No. 02/2008-09

S.O. 879.—In exercise of the powers conferred by Sub-Clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2C of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "Pragya Chaitanya Foundation Trust, Jaipur" for the purpose of the said section for the A.Y. 2007-08 & onwards:

Provided that the society conforms to and complies with the provisions of sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2C of the Income-tax Rules, 1962.

[No. CCIT/JP/Adm. CIT (Coord.)/10(23C)(iv)/2008-09/163]

S. C. KAPIL, Chief Commissioner of
Income-tax

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 10 अप्रैल, 2008

क्र. आ. 880.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5घ के

संघ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रबोचनार्थ 1-4-2006 से संगठन मैसर्स इंडियन एसोसिएशन फॉर दी कल्चरेशन ऑफ साइंस, कोलकाता को निम्नलिखित शर्तों के अधीन अनुसंधान कार्यालय में आंशिक रूप से संलग्न 'वैज्ञानिक अनुसंधान संघ' की श्रेणी में अनुमोदित किया गया है, अर्थात्:-

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामिकृत छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा;
- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग बही खाता रखेगा जिसमें अनुसंधान कार्य करने के लिए प्रयुक्त राशि को दर्शाया तथा, उक्त अधिनियम की धारा 288 की उपधारा (2) के सम्यक्करण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उपधारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में लेखाधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा;
- (iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित विवरण को प्रति प्रस्तुत करेगा।

2. केंद्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अलग लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा

(ङ) उक्त नियमवली के नियम 54 और 54 के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रबोचनों के अनुरूप नहीं होगा तथा उक्त पालन नहीं करेगा।

[अधिसूचना सं. 54/2008/फ. सं. 203/43/2007-आ.क.नि.-II]

सुरेन्द्र पाल, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 10th April, 2008

S.O. 886.—It is hereby notified for general information that the organization M/s. Indian Association for the Cultivation of Science, Kolkata has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5D of the Income-tax Rules, 1962 (said Rules), with effect from 1-4-2006 in the category of 'Scientific Research Association', subject to the following conditions, namely:—

- (i) The sole objective of the approved 'scientific research association' shall be to undertake scientific research;
- (ii) The approved organization shall carry on the scientific research activity by itself;
- (iii) The approved organization shall maintain books of accounts and get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:-

- (a) fails to maintain books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or

- (c) fails to furnish its statement of the donations received and amounts applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5D of the said Rules.

[Notification No. 54/2008/F. No. 203/43/2007/ITA-II]

SURENDER PAL, Under Secy.

नई दिल्ली, 10 अप्रैल, 2008

का. अ. 881.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर विनियमवली, 1962 (उक्त नियमवली) के नियम 5ग और 5घ के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 1-4-2006 से संगठन मैसर्स टाटा इंस्टीट्यूट ऑफ फंडामेंटल रिसर्च, मुम्बई को निम्नलिखित शर्तों के अधीन अंतिम रूप से संलग्न 'वैज्ञानिक अनुसंधान संघ' की श्रेणी में अनुमोदित किया गया है, अर्थात्—

- (i) अनुमोदित 'वैज्ञानिक अनुसंधान संघ' मुख्य उद्देश्य वैज्ञानिक अनुसंधान करना होगा;
- (ii) अनुमोदित संगठन स्वयं वैज्ञानिक अनुसंधान कार्य-कलाप जारी रखेगा;
- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग बही खाता रखेगा जिसमें अनुसंधान कार्य करने के लिए प्रयुक्त राशि को दर्शाया गया, उक्त अधिनियम की धारा 288 की उपधारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उपधारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिकत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर अधिकृत अथवा आयकर निदेशक को प्रस्तुत करेगा;
- (iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त धन तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षा द्वारा विधिकत सत्यापित विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन कबिल से लेगी यदि अनुमोदित संगठन—

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अलग लेखा बही नहीं रखेगा; अथवा

- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त धन का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमवली के नियम 5ग और 5घ के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 55/2008/फा. सं. 203/123/2007-आ.क.वि.-II]

सुरेन्द्र पाल, अवर सचिव

New Delhi, the 10th April, 2008

S.O. 881.—It is hereby notified for general information that the organization M/s. Tata Institute of Fundamental Research, Mumbai has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5D of the Income-tax Rules, 1962 (said Rules), with effect from 1-4-2006 in the category of 'Scientific Research Association', subject to the following conditions, namely:—

- (i) The sole objective of the approved 'Scientific research association shall be to undertake scientific research;
- (ii) The approved organization shall carry out on the scientific research activity by itself;
- (iii) The approved organization shall maintain books of accounts and get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization :—

- (a) fails to maintain books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and amounts applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5D of the said Rules.

[Notification No. 53/2008/F. No. 203/123/2007/ITA-II]
SURENDER PAL, Under Secy.

नई दिल्ली, 10 अप्रैल, 2008

स.स. 882.—सर्वसामान्य की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमवली, 1962 (उक्त नियमवली) के नियम 5न और 5ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोगार्थ 1-4-2007 से संलग्न सहायकता लेख निम्नलिखित, नई दिल्ली को निम्नलिखित शर्तों के अधीन अनुसंधान संस्थानों में अंशिक रूप से संलग्न 'विश्वविद्यालय' की श्रेणी में अनुमोदित किया गया है, अर्थात् :—

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा ;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने भागीदार छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा ;
- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग बही खाता रखेगा जिसमें अनुसंधान करने के लिए प्रयुक्त राशि को दर्शाएगा तथा, उक्त अधिनियम की धारा 288 की उपधारा (2) के स्पष्टीकरण में दत्त परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा करवाएगा और उक्त अधिनियम की धारा 139 की उपधारा (1) के अंतर्गत आम विवरणी प्रस्तुत करने की निम्नलिखित तक ऐसे लेखाकार द्वारा निम्नलिखित सहायक एवं इस्तफादित लेखा परीक्षा रिपोर्ट प्राप्त होने में क्षेत्रधिकार रखने वाले आयकर अधुक्त अधिक आयकर निदेशक को प्रस्तुत करेगा ;
- (iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त राशि तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षा द्वारा निम्नलिखित सहायक विवरण की प्रती प्रस्तुत करेगा ।

2. केन्द्र सरकार का अनुमोदन कबित हो लेगी यदि अनुमोदित संगठन :—

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अलग लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा ; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त राशि प्रयुक्त राशि का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को वास्तव नहीं करा जाएगा; अथवा
- (ङ) उक्त नियमवली के नियम 5 न और 5 ड के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोगार्थ के अनुकूल नहीं होगा तथा उनका पालन नहीं करेगा ।

[अधिसूचना सं. 53/2008/फा. सं. 203/56/2006—आ.क.नि.—II]

सुरेन्द्र पाल, अवर सचिव

New Delhi, the 10th April, 2008

S.O. 882.—It is hereby notified for general information that the organization Jawaharlal Nehru University, New Delhi, has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5D of the Income-tax Rules, 1962 (said Rules), with effect from 1-4-2007 in the category of 'University', partly engaged in research activities subject to the following conditions, namely:—

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the

auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:-

- (a) fails to maintain separate book of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5E and 5D of the said Rules.

[Notification No. 53/2008/F.No. 203/56/2006/ITA-II]

SURENDER PAL, Under Secy.

नई दिल्ली, 10 अप्रैल, 2008

का. आ. 883.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5 ग और 5 ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 1-4-1998 से संगठन वादिया इंस्टीट्यूट ऑफ हिमालयन ज्योलॉजी, देहरादून को निम्नलिखित शर्तों के अधीन आंशिक रूप से शोध कार्यों में संलग्न 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, नामतः—

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा ;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामित छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा ;
- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग बही खाता रखेगा जिसमें अनुसंधान करने के लिए प्रयुक्त राशि को दर्शाया तथा, उक्त अधिनियम की धारा 288 की उपधारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी झाला-बही की लेखा परीक्षा करायें और उक्त अधिनियम की धारा 139 की उपधारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा ;
- (iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक

द्वारा विधिवत सत्यापित विवरण की प्रति प्रस्तुत करेगा ।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अलग लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा ; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5 ग और 5 ड के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा ।

[अधिसूचना सं. 51/2008/फा. सं. 203/86/2007—आ.क.नि.—II]

सुरेन्द्र पाल, अवर सचिव

New Delhi, the 10th April, 2008

S.O. 883.—It is hereby notified for general information that the organization Wadia Institute of Himalayan Geology, Dehradun has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), with effect from 1-4-1998 in the category of 'Other Institution', partly engaged in research activities subject to the following conditions, namely:—

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received

and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:-

- (a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5E of the said Rules.

[Notification No. 51/2008/F. No. 203/86/2007/ITA-II]
SURENDER PAL, Under Secy.

नई दिल्ली, 10 अप्रैल, 2008

का. अ. 884.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर विनियमवली, 1962 (उक्त विनियमवली) के नियम 5ग और 5इ के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 1-4-2007 से संगठन बनारस हिन्दू विश्वविद्यालय, वाराणसी को निम्नलिखित शर्तों के अधीन अनुसंधान कार्यालयाप में आंशिक रूप से संलग्न 'विश्वविद्यालय' की श्रेणी में अनुमोदित किया गया है, अर्थात्:-

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामीकृत छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा;
- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसके द्वारा प्राप्त राशि के संबंध में अलग बही खाता रखेगा जिसमें अनुसंधान कार्य करने के लिए प्रयुक्त राशि को दर्शाया तब, उक्त अधिनियम की धारा 288 की उपधारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उपधारा (1) के अंतर्गत आय विवरणों प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिकृत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट प्राप्त होने में क्षेत्राधिकार

रखने वाले आवक आनुकूल अथवा उच्चकर निदेशक को प्रस्तुत करेगा;

- (iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त राशि तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिकृत सत्यापित विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अलग लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त राशि का अलग विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त विनियमवली के नियम 5ग और 5इ के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 52/2008/फ. सं. 203/14/2008-आ.क.नि.-II]
सुरेन्द्र पाल, अवर सचिव

New Delhi, the 10th April, 2008

S.O. 884.—It is hereby notified for general information that the organization Banaras Hindu University, Varanasi, has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), with effect from 1-4-2007 in the category of 'University', partly engaged in research activities subject to the following conditions, namely:—

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying

out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;

- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization :—

- fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- ceases to carry on its research activities or its research activities are not found to be genuine; or
- ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5E of the said Rules.

[Notification No. 52/2008/F. No. 203/14/2008/ITA-II]

SURENDER PAL, Under Secy.

नई दिल्ली, 11 अप्रैल, 2008

आयकर

क्र. आ. 885.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 36 की उपधारा (1) के खंड (xii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा डेयरी और अन्य कृषि आधारित सम्बद्ध उद्योगों और वैशिकों के विकास के लिए राष्ट्रीय डेयरी विकास बोर्ड अधिनियम, 1987 (1987 का 37) की धारा 4 के अन्तर्गत संस्थापित राष्ट्रीय डेयरी विकास बोर्ड को उक्त खंड के प्रयोजनार्थ निम्नलिखित शर्तों के अधीन अधिसूचित करती है, नामतः—

- (i) व्यय जिसका आयकर अधिनियम, 1961 के अन्तर्गत कटौती योग्य दावा किया गया है, राष्ट्रीय डेयरी विकास

बोर्ड अधिनियम, 1987 (1987 का 37) द्वारा प्राधिकृत उद्देश्यों एवं प्रयोजनों के लिए किया गया है;

- ऐसा व्यय पूंजीगत व्यय की प्रकृति का नहीं है;
- ऐसा व्यय आयकर अधिनियम, 1961 के किन्हीं अन्य प्रावधानों के अन्तर्गत कटौती के लिए पात्र नहीं है; तथा
- उक्त खंड के अन्तर्गत दावाकृत व्यय का एक अलग खाता राष्ट्रीय डेयरी विकास बोर्ड द्वारा रखा जाता हो।

2. यह अधिसूचना 1 अप्रैल, 2008 से अर्थात् कर निर्धारण वर्ष 2008-09 और परवर्ती कर निर्धारण वर्षों के लिए लागू होगी।

[अधिसूचना सं. 56/2008/फा. सं. 225/60/2008-आ.क.नि.-II]

सुरेन्द्र पाल, अव. सचिव

New Delhi, the 11th April, 2008

INCOMETAX

S.O. 885.—In exercise of the powers conferred by clause (xii) of sub-section (1) of Section 36 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, the National Dairy Development Board established under section 4 of the National Dairy Development Board Act, 1987 (37 of 1987) for the development of dairy and other agriculture based allied industries and biologicals, subject to the following conditions, namely :—

- the expenditure, claimed as deductible under the Income-tax Act, 1961 is incurred for the objects and purposes authorized by the National Dairy Development Board Act, 1987 (37 of 1987);
- such expenditure is not in the nature of capital expenditure;
- such expenditure is not eligible for deduction under any other provision of the Income-tax Act, 1961; and
- a separate account of the expenditure claimed under the said clause is maintained by the National Dairy Development Board.

2. This notification shall be applicable with effect from 1st day of April, 2008, that is, for the assessment year 2008-09 and subsequent assessment years.

[Notification No. 56/2008/F. No. 225/60/2008-ITA-II]

SURENDER PAL, Under Secy.

(वित्तीय सेवाएं विभाग)

मुद्रित-पत्र

नई दिल्ली, 16 अप्रैल, 2008

क्र. आ. 886.—भारत के असाधारण राजपत्र के भाग II, खण्ड 3, उपखण्ड (ii) दिनांक 21 दिसम्बर, 2005 को प्रकाशित, दिनांक 21 दिसम्बर, 2005 के वित्त मंत्रालय, आर्थिक कार्य विभाग

(बैंकिंग प्रणाली) की असाधारण अधिसूचना संख्या का.आ. 1791(अ) में, पृष्ठ 9 की पंक्ति 8 में आंशिक संशोधन करते हुए "रोयर पूंजी जमा-लेव्स करोड़ दस लाख और पचाहत्तर हजार" शब्दों को "रोयर पूंजी जमा-चौबीस करोड़ पांच लाख अस्सी हजार और तीन सौ साठ" पढ़ा जाए।

[फा. सं. 1/4/2006-आर.अ.सं.]

एम. के. मल्होत्रा, उप सचिव

(Department of Financial Services)

CORRIGENDUM

New Delhi, the 16th April, 2008

S.O. 886.—In partial modification of Ministry of Finance, Department of Economic Affairs, Banking Division's Extraordinary notification No. S.O. 1791(E) dated 21-12-2005 published in the Gazette of India Part II, Section-3 sub-section (ii) dated the 21st December, 2005, on Page No. 12 line No. 30 the words "Share Capital Deposit—Rupees twenty three crore ten lakh and seventy five thousand" may be read as "Share Capital Deposit—Rupees twenty four crore five lakh eighty thousand and three hundred sixty".

[F. No. 1/4/2006-RJB]

M. K. MALHOTRA, Dy. Secy.

केन्द्रीय आर्थिक असाधारण ब्यूरो

(कोफेपोसा यूनिट)

आदेश

नई दिल्ली, 22 अप्रैल, 2008

का. आ. 887.—यह संयुक्त सचिव, भारत सरकार निम्न विदेशी मुद्रा संरक्षण और सस्कारी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अन्तर्गत विशेष रूप से शक्ति प्रदान की गई है, ने उक्त उपधारा के अधीन आदेश फाइल सं. 673/06/2008-सी. सु. VIII दिनांक 14-03-2008 को जारी किया और यह निर्देश दिया कि श्री विनोद कुमार अगरवाल, सुपुत्र श्री उमर दत्त अगरवाल, निवासी-सी-3, सुनीता, कोप्री कॉलोनी, थाने (पूर्व), मुंबई, महाराष्ट्र वैकल्पिक पता सखी, मैसर्स रुचिका इन्टरनेशनल, बाबु येन्सन, प्रथम तल, 16, नदिरशाह स्ट्रीट, फोर्ट, मुंबई-400001 को निरुद्ध कर लिया जाए और येरवडा केन्द्रीय कारागार, पुणे में अभिरक्ष में रखा जाए ताकि उन्हें पविष्य में बीजे की सस्कारी करने से रोका जा सके।

2. अतः केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या स्वयं को छिपे रखा है जिससे यह आदेश निष्प्रेषित नहीं किया जा सकता।

3. अतः अब उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार

एतद्वारा पूर्वोक्त व्यक्ति को यह निर्देश देती है कि वह शासकीय राजपत्र में इस आदेश के प्रकाशित होने के 7 दिन के भीतर पुलिस आयुक्त, थाने (पश्चिम), महाराष्ट्र के सम्मुख उपस्थित हो।

[फा. सं. 673/06/2008-सी. सु. VIII]

वी. के. खन्ना, उप सचिव

CENTRAL ECONOMIC INTELLIGENCE BUREAU
(COFEPOSA UNIT)

ORDER

New Delhi, the 22nd April, 2008

S.O. 887.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/06/2008-Cus. VIII, dated 14-03-2008 under the said sub-section directing that Shri Vinod Kumar Agarwal, son of Shri Uma Datta Agarwal, R/o C-3, Sunita, Kopri Colony, Thane (East), Mumbai, Maharashtra; Alternate address—Partner, M/s. Ruchika International, Baru Mansion 1st Floor, 16, Nadirshah Street, Fort, Mumbai-400001, be detained and kept in custody in Yerwade Central Prison, Pune with a view to preventing him from smuggling goods in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or has been concealing himself so that the order cannot be executed.

3. Now, therefore, in exercise of the powers conferred by Clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Thane (W), Maharashtra within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/06/2008-Cus. VIII]

V. K. KHANNA, Dy. Secy.

(आर्थिक कार्य विभाग)

नई दिल्ली, 23 अप्रैल, 2008

का. आ. 888.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित, 1987) के नियम 10 के उप नियम (4) के अनुसरण में, विश्व बैंकालय, आर्थिक कार्य विभाग के प्रशासनिक नियंत्रण में भारत प्रविष्टि मुद्रा और मुद्रा निर्माण निगम लिमिटेड, कारपोरेट कार्यालय, नई दिल्ली, निम्नलिखित 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी को कार्यालयिक भाषा प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

[सं. 11013/3/2008-हि.का.क.]

अमरनाथ, निदेशक (राजभाषा)

(Department of Economic Affairs)

New Delhi, the 23rd April, 2008

S.O. 888.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976, the Central Government, hereby, notifies the Security Printing and Minting Corporation of India Limited, Corporate Office, New Delhi, under the administrative control of Ministry of Finance, Department of Economic Affairs, whereof more than 80% of staff have acquired working knowledge of Hindi.

[No. 11013/3/2008-HIC]

AMARNATH, Director (OL)

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 28 मार्च, 2008

का. आ. 889.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की प्रथम अनुसूची में एतद्वारा निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अनुसूची में "राजीव गांधी स्वास्थ्य विज्ञान विश्वविद्यालय बेंगलूर, कर्नाटक" के सामने शीर्षक "मान्यता प्राप्त चिकित्सा अर्हता" [स्तम्भ (2) में] के अन्तर्गत तथा शीर्षक 'पंजीकरण के लिए संक्षेपण' [स्तम्भ (3) में] के अंतर्गत निम्नलिखित रखा जाएगा अर्थात् :—

(2)	(3)
बैचलर ऑफ मेडिसिन एंड बैचलर ऑफ सर्जरी	एम.बी.बी.एस. (यह एक मान्यताप्राप्त चिकित्सा अर्हता होगी यदि यह बसवेश्वर मेडिकल कॉलेज, चित्रदुर्ग, कर्नाटक में प्रशिक्षित छात्रों के सम्बन्ध में राजीव गांधी स्वास्थ्य विज्ञान विश्वविद्यालय, बेंगलूर, कर्नाटक द्वारा वर्ष 2006 से प्रदान की गई हो)

[सं. यू. 12012/112/1999-एमई (पी-II)]

एन. बारिक, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 28th March, 2008

S.O. 889.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government,

after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said First Schedule against "Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka" under the heading 'Recognized Medical Qualification' [in column (2)] and under the heading Abbreviation for Registration [in column (3)], the following shall be inserted, namely :—

(2)	(3)
Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. (This shall be a recognized medical qualification when granted by Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka with the effect from the year 2006 in respect of students trained at Basveshwara Medical College Chitradurga, Karnataka)

[No. U. 12012/112/1999-ME(P-II)]

N. BARIK, Under Secy.

विद्युत मंत्रालय

नई दिल्ली, 21 अप्रैल, 2008

का. आ. 890.—विद्युत अधिनियम, 2003 (2003 का 36) की धारा 162 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा सरकारी राजपत्र में इस अधिसूचना के प्रकाशन के पश्चात् कार्यभार ग्रहण करने की तारीख से श्री एस. के. ठाकराल, मुख्य अभियंता, केंद्रीय विद्युत प्राधिकरण को मुख्य वैद्युत निरीक्षक के पद पर नियुक्त करती है।

[फा. सं. 42/4/2001-आर एंड आर]

आई. सी. पी. केशरी, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 21st April, 2008

S.O. 890.—In exercise of the powers conferred by sub-section (1) of section 162 of the Electricity Act, 2003 (36 of 2003), the Central Government hereby appoints Shri S. K. Thakral, Chief Engineer, Central Electricity Authority as Chief Electrical Inspector w.e.f. the date of assumption of charge after the publication of this notification in the Official Gazette.

[F. No. 42/4/2001-R&R]

I. C. P. KESHARI, Jt. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 15 अप्रैल, 2008

अधिसूचना

क्र. आ. 891—केन्द्रीय सरकार एतद्वारा पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) के धारा 8 की उपधारा (4) के अनुसरण मुद्रा-वर्तिष्का कच्चे तेल पाइपलाइन के संदर्भ में, गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड में निहित निम्नलिखित का. आ. नम्बर और अनुरूपी भारत के राजपत्र, भाग 2, खण्ड 3, उपखण्ड (ii) में प्रकाशित भूखण्डों में भूमि में उपयोग का अधिकार, एचपीसीएल-मिल्लर पाइपलाइन्स लिमिटेड (गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड की समनुषंगी) में निहित करती है।

राजपत्र सं०	प्रकाशन तारिख	का.आ.	राजपत्र सं०	प्रकाशन तारिख	का.आ.
49	फरवरी 7, 2002	3778	13	मार्च 29, 2003	1043
49	फरवरी 7, 2002	3780	13	मार्च 29, 2003	1044
13	मार्च 30, 2002	1082	13	मार्च 29, 2003	1045
16	अप्रैल 20, 2002	1324	18	मई 3, 2003	1337
16	अप्रैल 20, 2002	1325	19	मई 10, 2003	1386
16	अप्रैल 20, 2002	1326	19	मई 10, 2003	1387
22	जून 1, 2002	1798	25	जून 21, 2003	1701
22	जून 1, 2002	1800	25	जून 21, 2003	1704
23	जून 8, 2002	1877	31	अगस्त 2, 2003	2198
25	जून 22, 2002	2062	31	अगस्त 2, 2003	2199
25	जून 22, 2002	2063	31	अगस्त 2, 2003	2200
28	जुलाई 13, 2002	2298	35	अगस्त 30, 2003	2471
29	जुलाई 20, 2002	2350	37	सितम्बर 13, 2003	2692
34	अगस्त 24, 2002	2695	38	सितम्बर 20, 2003	2647
39	सितम्बर 28, 2002	3078	38	सितम्बर 20, 2003	2648
44	नवम्बर 2, 2002	3468	39	सितम्बर 27, 2003	2721
46	नवम्बर 8, 2002	3534	39	सितम्बर 27, 2003	2722
47	नवम्बर 23, 2002	3676	40	अक्टूबर 4, 2003	1387
48	नवम्बर 30, 2002	3725	40	अक्टूबर 4, 2003	2837
50	दिसम्बर 14, 2002	3850	43	अक्टूबर 25, 2003	2059
50	दिसम्बर 14, 2002	3853	11	मार्च 13, 2004	608
52	दिसम्बर 28, 2002	4008	11	मार्च 13, 2004	609
3	जनवरी 18, 2003	221	12	मार्च 20, 2004	670
5	फरवरी 1, 2003	374	13	मार्च 27, 2004	750
6	फरवरी 8, 2003	477	13	मार्च 27, 2004	751

राजपत्र सं०	प्रकाशन तारीख	का.आ.	राजपत्र सं०	प्रकाशन तारीख	का.आ.
8	फरवरी 22, 2003	630	13	मार्च 27, 2004	753
8	फरवरी 22, 2003	633	13	मार्च 27, 2004	755
8	फरवरी 22, 2003	634	13	मार्च 27, 2004	756
9	मार्च 1, 2003	718	14	अप्रैल 3, 2004	827
11	मार्च 15, 2003	870	14	अप्रैल 3, 2004	828
11	मार्च 15, 2003	871	14	अप्रैल 3, 2004	829
11	मार्च 15, 2003	877	15	अप्रैल 10, 2004	878
11	मार्च 15, 2003	878	15	अप्रैल 10, 2004	880
12	मार्च 22, 2003	974	18	मई 1, 2004	1083
12	मार्च 22, 2003	975	29	जुलाई 17, 2004	1690
12	मार्च 22, 2003	976	38	सितम्बर 18, 2004	2317

[फा. सं. आर-31015/12/2008-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 15th April, 2008

NOTIFICATION

S. O. 891.—The Union Government hereby vests the Right of User in Land in respect of Mundra - Bathinda Crude Oil Pipeline, for the plots of land vested with Guru Gobind Singh Refineries Limited, pursuant to Clause (4) of Section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962), published in the following S.O. numbers and the corresponding Gazettes of India, Part-II, Section-3, Sub-section (ii), in HPCL-Mittal Pipelines Limited (a subsidiary of Guru Gobind Singh Refineries Limited):

GAZETTE NO.	GAZETTE DATE	S.O. NO.	GAZETTE NO.	GAZETTE DATE	S.O. NO.
49	February 7, 2002	3778	13	March 28, 2003	1043
49	February 7, 2002	3780	13	March 29, 2003	1044
13	March 30, 2002	1092	13	March 29, 2003	1045
16	April 20, 2002	1324	18	May 3, 2003	1337
16	April 20, 2002	1325	19	May 10, 2003	1386
16	April 20, 2002	1326	19	May 10, 2003	1387
22	June 1, 2002	1796	25	June 21, 2003	1701
22	June 1, 2002	1800	25	June 21, 2003	1704
23	June 8, 2002	1877	31	August 2, 2003	2198
25	June 22, 2002	2062	31	August 2, 2003	2199
25	June 22, 2002	2063	31	August 2, 2003	2200
28	July 13, 2002	2298	35	August 30, 2003	2471
29	July 20, 2002	2350	37	September 13, 2003	2592
34	August 24, 2002	2695	38	September 20, 2003	2647
39	September 28, 2002	3078	38	September 20, 2003	2648
44	November 2, 2002	3468	39	September 27, 2003	2721
45	November 9, 2002	3534	39	September 27, 2003	2722

GAZETTE NO.	GAZETTE DATE	S.O. NO.	GAZETTE NO.	GAZETTE DATE	S.O. NO.
47	November 23, 2002	3676	40	October 4, 2003	1367
48	November 30, 2002	3725	40	October 4, 2003	2839
50	December 14, 2002	3850	43	October 25, 2003	3059
50	December 14, 2002	3853	11	March 13, 2004	608
52	December 26, 2002	4006	11	March 13, 2004	608
3	January 18, 2003	221	12	March 26, 2004	670
5	February 1, 2003	374	13	March 27, 2004	750
6	February 8, 2003	477	13	March 27, 2004	751
8	February 22, 2003	630	13	March 27, 2004	753
8	February 22, 2003	633	13	March 27, 2004	755
8	February 22, 2003	634	13	March 27, 2004	756
9	March 1, 2003	718	14	April 3, 2004	827
11	March 15, 2003	870	14	April 3, 2004	828
11	March 15, 2003	871	14	April 3, 2004	829
11	March 15, 2003	877	15	April 10, 2004	878
11	March 15, 2003	878	15	April 10, 2004	880
12	March 22, 2003	974	18	May 1, 2004	1083
12	March 22, 2003	975	29	July 17, 2004	1690
12	March 22, 2003	976	38	September 18, 2004	2317

[F. No. R-31015/12/2008-O.R.-II]
A. GOSWAMI, Under Secy.

नई दिल्ली, 24 अप्रैल, 2008

का. आ. 892.— केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि कर्नाटक राज्य में देवनगोदी से नया बेंगलोर अन्तर्राष्ट्रीय एअरपोर्ट, देवनहल्ली, तक पेट्रोलियम उत्पादन के परिवहन के लिये इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए।

और ऐसा प्रतीत होता है कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपाय अनुसूची में वर्णित भूमि में उपयोग के अधिकार का अर्जन करना आवश्यक है।

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है।

उक्त अनुसूची में हितबद्ध कोई व्यक्ति, उस तारीख से, जिसको राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिनों के भीतर, भूमि के उपयोग के अधिकार का अर्जन या भूमि के नीचे पाइपलाइन बिछाने के संबंध में लिखित रूप में आक्षेप श्री आर. आर. जन्तू, सक्षम प्राधिकारी (कर्नाटक), इंडियन ऑयल कॉर्पोरेशन लिमिटेड, देवनगोदी से नया बेंगलोर अन्तर्राष्ट्रीय एअरपोर्ट देवनहल्ली तक एटीएफ पाइपलाइन परियोजना, नं 719, गौड फ्लोर, 4 ब्रास, 7 मैन कल्याण नगर, 1 ब्लॉक बेंगलूर-560043, कर्नाटक को भेज सकेगा।

अनुसूची

तालुका : होसकोटे

जिला : बेंगलोर रुरल

राज्य : कर्नाटक

गाँव का नाम	सर्वे नंबर	हिस्सा नंबर	क्षेत्रफल		
			हेक्टर	आर	वर्ग मीटर
1	2	3	4	5	6

होबली : कंसबा

दोड्ड हुल्लूरु

75

6

0

05

58

[फा. सं. आर-25011/3/2007-ओ.आर.-1]

एस. के. चिटकारा, अवर सचिव

New Delhi, the 24th April, 2008

S. O. 892.— Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products from Devanagondhi to New Bangalore International Airport Devanahalli in the State of Karnataka, a pipeline should be laid by the Indian Oil Corporation Limited.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land, to Shri.R.R.Jannu, Competent Authority (Karnataka), Indian Oil Corporation Limited, Devanagondhi to New Bangalore International Airport Devanahalli ATF Pipeline Project, No.719, Ground Floor, 4th Cross, 7th Main, Kalyna Nagar, 1st Block Bangalore-560043 (Karnataka).

SCHEDULE

Taluk : Hosakote		District : Bangalore Rural		State : Karnataka	
Name of the Village	Survey no.	Sub-Division no.	Area		
			Hectare	Acre	Sq.mtr.
1	2	3	4	5	6
Hobli : Kasaba					
DODDAHULLURU	75	6	0	05	56

[F. No. R-25011/3/2007-O.R.-4]
S.K. CHITKARA, Under Secy.

नई दिल्ली, 24 अप्रैल, 2008

क्र. भा. 893.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में स्थापित कोयली — दहेज पाइपलाइन की शाखा आमोद से हजीरा तक पेट्रोलियम उत्पादन के परिवहन के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के भीतर पाइपलाइन बिछाए जाने के संबंध में, श्रीमती आशा आर. शाह, सक्षम प्राधिकारी (गुजरात), इंडियन ऑयल कार्पोरेशन लिमिटेड, मकान नं. 3/122, गुजरात रिफाइनरी टाउनशिप, पी. आ. जवाहरनगर, वडोदरा — 391 320, (गुजरात) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

राज्य	जिला	तालुका	गाँव	सर्वेक्षण सं. - खण्ड सं.	उप - खण्ड सं.	क्षेत्रफल		
						हेक्टेयर	एयर	वर्गमीटर
1	2	3	4	5	6	7	8	9
गुजरात	मरुच	आमोद	इटोला	210		00	13	71
				211		00	13	22
				212		00	12	10
				228		00	05	06
				290		00	39	80
				269		00	08	20
				281		00	14	45
				282		00	22	71
				283		00	00	51
				385		00	22	42
				386		00	00	32
				384		00	00	45
				382		00	16	13
				376		00	05	30
				375		00	04	82
				374		00	12	77
				380		00	05	54
				389		00	26	26
				451		00	04	25
				462		00	16	13
				460		00	08	41
				461		00	12	15
				459		00	04	52
				489		00	08	95
				488		00	06	53
				490		00	00	05
				491		00	14	51
				493		00	17	52
			कोलवणा	782		00	19	44
				781		00	15	77
				754		00	02	21
				780		00	06	09
				772		00	00	70
				779		00	09	10
				785		00	19	81
				778		00	21	04
				791		00	00	05
				773		00	01	44
				792		00	19	07
				793		00	25	06
				827		00	11	45
				828		00	00	45
				826		00	18	32
				852		00	05	71
				851		00	23	76
				850		00	10	31
				853		00	00	08
				1026		00	09	23
				1016		00	00	36
				1017		00	01	44

[अनु II—अनु 3(ग)]

काल का समय : अक्टूबर 26, 2008/मार्च 6, 1930

1999

1	2	3	4	5	6	7	8	9
			कोलवणा	1018		00	02	87
			(आरी)	1019		00	01	84
				1025		00	01	99
				1024		00	13	91
				1020		00	02	18
				1023		00	16	06
				1021		00	00	08
				1022		00	17	84
				1011		00	10	58
				1010		00	00	05
				1099		00	12	00
				1114		00	03	98
				1128		00	00	67
				1115		00	07	64
				1116		00	34	97
				1117		00	07	41
				1118		00	23	48
				1123		00	07	50
				1207		00	33	55
				1208		00	07	91
				1223		00	09	44
				1224		00	08	00
				1225		00	14	74
				1251		00	05	40
				1252		00	05	22
				1253		00	05	43
				1256		00	08	87
				1255		00	06	52
				1254		00	03	67
				1260		00	00	82
				1287		00	13	20
				1286		00	16	23
				1327		00	01	22
				1329		00	05	45
				868		00	13	82
				867		00	12	62
				1376		00	00	70
				1377		00	15	06
				1380		00	01	24
				1379		00	28	31
				1381		00	05	02
				1391		00	21	71
				648		00	08	43
				1409		00	02	61
				1408		00	02	08
				852		00	03	82
				854		00	11	84
				882		00	11	81
				1404		00	01	18
				748		00	28	30
				1403		00	08	34
				1401		00	03	17
				1402				
			वागरा	वीलीआद	133		00	10
					138		00	30
								08

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THE GAZETTE OF INDIA: APRIL 26, 2008/VAISAKHA 6, 1930

[PART II—Sec. 3(ii)]

1	2	3	4	5	6	7	8	9
			बीछीआड (जारी)	136	B	00	07	72
				142		00	35	57
				114		00	36	53
				92	A/1	00	07	77
				92	A/2	00	35	64
				92	B	00	29	34
				93		00	25	06
				81	1	00	59	18
			साधण	121		00	14	19
				120	A	00	41	76
				120	B	00	42	50
				145		01	04	11
				135		00	18	92
				150		00	10	75
				163		00	32	50
				168		00	17	17
				169		00	14	66
				167		00	10	05
				185		00	26	71
				189		00	04	55
				181		00	51	25
				180		00	11	51
				211		00	24	26
				210		00	11	69
				212		00	23	87
				214		00	03	49
				213		00	52	34
				225		00	00	97
			वागरा	682		00	12	42
				683		00	20	62
				728	A	00	00	05
				727		00	16	99
				724		00	01	15
				723		00	08	58
				709		00	01	83
				722		00	05	98
				711		00	05	41
				713		00	08	00
				714		00	03	42
				720		00	12	82
				719		00	15	87
				718		00	06	48
				746		00	27	83
				752		00	34	33
				762		00	24	41
				764		00	11	12
				765		00	31	56
				795		00	14	44
				796		00	00	90
			पीसाद	66		00	61	34
				67		00	16	20
				71		00	00	74

1901

संख्या	240	15	40
113	00	08	84
114	00	12	17
115	00	10	04
116	00	19	97
140	00	86	31
141	00	08	52
152	00	07	87
164	00	23	82
163	00	18	36
166	00	55	99
167	00	41	80
170	00	20	83
223	00	15	83
409	00	06	96
227	00	08	94
228	00	22	56
229	00	25	88
232	00	37	50
255	00	24	09
256	00	36	54
257	00	33	05
270	00	42	91
269	00	16	97
278			

1902

THE GAZETTE OF INDIA: APRIL 26, 2008/VAISAKHA 6, 1930

[PART II—SEC. 3(ii)]

1	2	3	4	5	6	7	8	9
			साजेखा (जारी)	278				
				277		00	10	28
				283		00	21	81
				285		00	21	58
				284		00	18	49
				410		00	17	52
				295		00	22	21
				308		00	30	36
				293		00	19	32
				310		00	29	70
						00	28	51
	मरुघ	अमलेखर		1012				
				1013		00	09	23
				1014		00	14	78
				1031		00	56	58
				1032		00	50	29
				1038		00	22	37
				1042		00	07	35
				1039		00	81	67
				1040		00	00	20
				1045		00	00	14
				951		00	24	96
				952		00	09	87
				941		00	07	28
				950		00	13	78
				942		00	06	38
				944		00	07	28
				946		00	08	28
				940		00	00	05
				945		00	02	51
				888		00	06	29
				881		00	32	04
				877		00	32	47
				878		00	56	77
				875		00	02	45
				872		00	18	47
				867		00	09	15
				861		00	15	21
				885		00	27	04
				884		00	13	16
				778		00	23	81
				779		00	09	56
						00	03	45
	शंखवाड			28				
				40		00	48	92
				41		00	12	35
				42		00	33	86
				72		00	01	22
				71		00	04	78
				88		00	18	09
				70		00	23	78
				88		00	10	83
				68		00	07	22
				92		00	40	29
						00	05	14

1	2	3	4	5	6	7	8	9
			नरेश	110		00	00	84
				111		00	01	72
				112		00	20	38
				134		00	05	15
				136		00	19	87
				136		00	10	48
				139		00	01	00
				146		00	13	90
				146		00	16	51
				149		00	19	07
				150		00	07	79
				128	P	00	00	25
				150	P	00	00	19
				180		00	19	52
				192		00	23	25
				192	P	00	20	89
				217		00	18	99
				216		00	12	88
				214		00	15	87
				312		00	16	52
				311		00	14	82
				313		00	01	74
				310		00	29	55
				309		00	03	13
				270		00	14	09
				324		00	17	89
				274		00	29	05
				277		00	04	42
			मुस्ताफाबाद (भांडपुरा)	277		00	04	29
				188		00	29	75
				186		00	10	23
				187		00	15	40
				195		00	25	04
				199		00	20	45
				180		00	07	02
				178		00	17	90
				209		00	08	78
				201		00	15	38
				202		00	13	94
				179		00	10	22
				252		00	05	67
				248		00	55	81
				249		00	01	54
				248		00	00	15
				313		00	23	89
				316		00	21	51
				317		00	13	98
				316		00	01	87
				339		00	27	85
				340		00	07	83
				341		00	00	18
				337		00	19	10
				344		00	19	95
				376		00	19	78
				369		00	45	24

1	2	3	4	5	6	7	8	9
			मुस्ताफाबाद	375		00	00	48
			(भाऊभुत)	370		00	06	64
			(जारी)	371		00	06	88
				437		00	30	53
				438		00	03	28
				445		00	14	16
		अंकलेश्वर	घांतुरीया	361		01	62	36
				383		00	12	09
				381		00	06	99
				373		00	11	62
				372		00	15	20
				337		00	15	32
				338		00	08	38
				314		00	11	29
				330		00	25	88
				317		00	12	44
				318		00	32	18
				316		00	00	07
				319		00	23	34
				297		00	12	57
				296		00	18	11
				279		00	06	45
				280		00	05	96
				281		00	14	16
				282		00	00	66
				283		00	26	86
				284		00	13	96
				240		00	11	25
				175		00	07	47
				176		00	25	48
				177		00	15	61
				178		00	04	87
				179		00	12	43
				180		00	06	10
				133		00	06	67
				92		00	18	10
				91		00	17	83
				90		00	17	45
				62		00	07	67
				63		00	10	14
				60		00	07	15
				55		00	18	47
				54		00	09	59
				18		00	14	62
				44		00	12	94
				43		00	05	76
				42		00	56	90
				23		00	12	12
				24		00	02	84
				25		00	15	32
				28		00	00	38
				26		00	00	76
				27		00	23	76
				29		00	09	58

1	2	3	4	5	6	7	8	9
			माटीअंक			00	75	10
			509			00	89	19
			510			00	06	90
			507			00	24	89
			550			00	13	71
			548			00	12	68
			548			00	04	87
			636			00	04	19
			636			00	26	61
			638			00	15	35
			640			00	13	29
			642			00	14	62
			657			00	13	50
			658			00	23	56
			660			00	00	05
			661			00	18	91
			662			00	19	20
			669			00	01	02
			667			00	18	07
			666			00	15	90
			220			00	16	38
			219			00	33	74
			216			00	21	17
			217			00	28	47
			214			00	09	30
			209			00	17	12
			169			00	12	93
			180			00	10	07
			166			00	02	40
			179			00	18	57
			180			00	14	10
			181			00	01	99
			171			00	25	34
			170			00	19	85
			165			00	09	65
			164			00	09	97
			163			00	28	77
			130			00	19	45
	हॉसोट	मोटिया	33			00	02	06
			57			00	15	42
			56			00	16	87
			59			00	09	80
			60			00	07	24
			61			00	15	84
			62			00	08	79
			62			00	19	82
			63	A		00	18	26
			219			00	02	53
	दीगस		583			00	05	31
			586			00	37	45
			609			00	21	77
			608	A		00	03	22
			608	B		00	18	18
			614	B		00	00	76

1	2	3	4	5	6	7	8	9
			दीगस	615		00	25	92
			(जारी)	643		00	22	08
				616		00	00	72
				617		00	01	61
				642		00	07	50
				618		00	01	95
				619		00	02	01
				624		00	08	60
				526		00	33	55
				527		00	10	23
				532		00	07	88
				529		00	05	30
				531		00	32	81
				505		00	03	21
				503	A	00	11	63
				503	B	00	18	04
				492		00	25	51
				473		00	18	50
				470		00	16	64
				464		00	25	83
				450		00	23	58
				451		00	16	58
				452		00	03	60
				453		00	08	70
				454		00	15	73
				442		00	00	81
				440		00	20	41
				436		00	11	48
				437		00	15	78
				416	A	00	27	64
				416	B	00	07	99
				404		00	54	02
				403		00	12	18
				401		00	09	27
				402	B	00	08	06
				383		00	14	29
				316		00	18	58
				317		00	44	68
				347		00	13	06
				352		00	14	90
				354		00	18	83
				361		00	17	24
				360		00	01	79
				338		00	23	28
				362		00	05	10
अंकलेख्यर भोतवाण				172		00	03	70
				173		00	17	32
				181		00	10	42
हासोट कलम				26	F	00	14	39
				57		00	05	51
				58		00	04	90
				59		00	16	54
				60		00	15	74
				5		00	10	67

1	2	3	4	5	6	7	8	9
	कालम			81		00	19	86
	(जारी)			87	A/2	00	08	28
				87	B	00	03	23
				88		00	10	07
				89		00	08	96
				74		00	08	58
				76		00	18	99
				76		00	04	87
				78		00	31	07
				77		00	02	48
				84		00	37	42
				28	G	00	01	18
	रोहीद			526	A	00	00	47
				523		00	13	82
				494		00	08	89
				495		00	07	43
				496		00	08	40
				521		00	14	55
				520		00	12	38
				519		00	12	77
				476	B	00	18	44
				476	A	00	08	03
				474		00	08	08
				500	A	00	00	05
				501	A	00	31	47
				502		00	15	47
				503		00	03	89
				383		00	12	52
				383		00	09	88
				384		00	02	78
				385		00	04	89
				386		00	14	82
				387		00	05	32
				388		00	06	27
				360		00	20	41
				264	B	00	08	73
				281		00	03	41
				280		00	04	08
				276	A	00	15	93
				279		00	20	47
				285		00	00	08
				277	A	00	13	39
				268		00	14	70
				269	A	00	08	73
				269	B	00	01	34
				271		00	00	08
				270		00	10	93
				256	B	00	13	17
				255		00	09	59
	कुडादरा			135		00	09	57
				153		00	00	05
				152		00	13	84
				145		00	16	12

1	2	3	4	5	6	7	8	9
			कुडादरा	144		00	17	77
			(जारी)	143	A/2	00	10	73
				143	A/1	00	05	06
				143	A/3	00	01	49
				143	B/2	00	06	56
				139		00	06	44
				138		00	09	44
				137		00	07	92
				133		00	02	60
				82		00	13	57
				81		00	04	61
				86		00	09	11
				87		00	27	33
				88		00	23	66
				77		00	11	30
				75		00	09	53
				89		00	55	83
				92		00	00	34
				91		00	08	34
			परवट	418		00	21	86
				417		00	11	89
				415		00	56	85
				413		00	05	09
				414		00	01	66
				288		00	29	54
				286		00	01	06
				287		00	21	72
				285		00	00	15
				319		00	09	70
				320		00	18	45
				325		00	00	23
				324		00	21	09
				327		00	03	46
				328		00	59	80
				333		00	03	21
				370		00	06	40
				368		00	21	49
				384		00	33	84
				363		00	22	33
				341		00	35	98
				342		00	05	13
				340		00	03	21
				189		00	05	98
				186		00	03	64
				190		00	33	67
				186		00	04	84
				197		00	05	43
				198		00	15	13
				199		00	06	58
				200		00	15	77
				202		00	12	86
				203		00	01	67
				212		00	35	31
				211		00	00	65
				210		00	43	19

1	2	3	4	5	6	7	8	9
			परवट	152		00	06	46
			(जारी)	150		00	15	86
				148		00	05	07
				149		00	12	22
				136		00	37	23
				133		00	33	80
			ओभा	183		00	13	22
				184		00	35	67
				185		00	03	07
				199		00	00	93
				171		00	21	84
				169		00	09	23
				168		00	19	32
				167		00	17	47
				217		00	08	15
				218		00	26	99
				219		00	01	34
				220		00	03	62
				181		00	22	01
				180		00	18	88
				144		00	00	47
				159		00	06	65
				146		00	02	39
				147		00	06	44
				158		00	02	94
				141		00	08	93
				156		00	21	95
				155		00	01	16
				129		00	00	94
				127		00	19	81
				126		00	08	06
				119		00	02	00
				118		00	20	07
				117		00	16	42
				112		00	06	85
				455		00	04	33
				456		00	23	97
				458		00	17	58
				73		00	08	62
				72		00	01	07
				70		00	20	79
				69		00	22	97
				47		00	23	59
				22		00	04	48
				23		00	04	50
				46		00	04	05
				24		00	07	49
				25		00	09	24
				1249		00	03	51
				1203		00	01	37
				1248		00	09	57
				1247		00	04	49
				1246		00	06	90
				1204		00	05	83
				1207		00	07	02

1	2	3	4	5	6	7	8	9
			ओभा	1208		00	13	93
			(जारी)	1211		00	07	14
				1212		00	02	66
				1215		00	26	41
				1216		00	00	05
				1143		00	02	34
				1142		00	08	93
				1141		00	03	71
				1129		00	05	07
				1133		00	00	05
				1130		00	00	05
				1131		00	06	61
				1132		00	17	43
				1123		00	08	01

[फा. सं. आर-25011/1/2008-ओ.आर.-1]

एस. के. चिटकाण, अवर सचिव

New Delhi, the 24th April, 2008

S. (1). 893.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Petroleum Products from Amod (Ex. Existing Koyali to Dahej Pipeline) to Hazira in the State of Gujarat, a branch pipeline should be laid by the Indian Oil Corporation Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Smt. Asha R. Shah, Competent Authority, Indian Oil Corporation Limited, at office Qtrs. No. 3/122, Refinery Township, P.O. Jawaharnagar, Vadodara – 391 320 (Gujarat).

SCHEDULE

State	District	Taluka	Village	Survey / Block No.	Sub-Division No.	Area		
						Hect.	Acre	Sq.mtr.
1	2	3	4	5	6	7	8	9
Gujarat	Bharuch	Amod	Intola	210		00	13	71
				211		00	13	22
				212		00	12	10
				226		00	05	06
				290		00	39	80
				269		00	09	20
				281		00	14	45
				282		00	22	71
				283		00	00	51
				385		00	22	42
				386		00	00	32
				384		00	00	45
				382		00	16	13
				376		00	05	30
				375		00	04	82
				374		00	12	77
				360		00	05	54
				369		00	26	26
				451		00	04	25
				462		00	16	13
				460		00	08	41
				461		00	12	15
				458		00	04	52
				489		00	08	95
				488		00	06	53
				490		00	00	05
				491		00	14	51
				493		00	17	52
			Kolwana	782		00	19	44
				781		00	15	77
				754		00	07	21
				780		00	05	09
				772		00	00	70
				779		00	09	10
				765		00	19	81
				776		00	21	04
				791		00	00	05
				773		00	01	44
				792		00	19	07
				793		00	25	06
				827		00	11	45
				826		00	00	46
				826		00	18	32
				852		00	05	71
				851		00	23	76
				850		00	10	31
				853		00	00	06
				1026		00	09	23
				1016		00	00	36

1	2	3	4	5	6	7	8	9
			Kolwana	1017		00	01	44
			(Contd.)	1018		00	02	15
				1019		00	01	87
				1025		00	05	64
				1024		00	01	59
				1020		00	13	91
				1023		00	02	18
				1021		00	16	06
				1022		00	00	09
				1011		00	17	84
				1010		00	10	58
				1099		00	00	05
				1114		00	12	09
				1128		00	03	98
				1115		00	00	67
				1116		00	07	64
				1117		00	34	97
				1118		00	07	41
				1123		00	23	48
				1207		00	07	50
				1208		00	33	55
				1223		00	07	91
				1224		00	09	44
				1225		00	08	00
				1251		00	14	74
				1252		00	05	40
				1253		00	05	22
				1258		00	05	43
				1255		00	06	87
				1254		00	05	52
				1250		00	03	67
				1287		00	00	82
				1286		00	13	20
				1327		00	16	23
				1329		00	01	22
				666		00	05	45
				667		00	13	62
				1376		00	12	62
				1377		00	00	70
				1380		00	15	05
				1379		00	01	24
				1381		00	28	31
				1391		00	05	02
				648		00	21	71
				1409		00	06	43
				1408		00	02	61
				652		00	02	06
				854		00	03	62
				682		00	11	84
				1404		00	11	61
				749		00	01	16
				1403		00	28	30
				1401		00	06	94
				1402		00	03	17

1	2	3	4	5	6	7	8	9
		Vagra	Vichhiad	133		00	10	08
				136	A	00	30	08
				136	B	00	07	72
				142		00	35	57
				114		00	36	53
				92	A/1	00	07	77
				92	A/2	00	35	64
				92	B	00	29	34
				93		00	25	08
				81	1	00	59	18
			Sachan	121		00	14	19
				120	A	00	41	78
				120	B	00	42	50
				145		01	04	11
				135		00	16	92
				150		00	10	73
				183		00	32	50
				168		00	17	17
				169		00	14	66
				167		00	10	05
				185		00	26	71
				189		00	04	55
				181		00	51	25
				180		00	11	51
				211		00	24	28
				210		00	11	69
				212		00	23	87
				214		00	03	49
				213		00	52	34
				225		00	00	97
		Vagra		682		00	12	42
				683		00	20	62
				726	A	00	00	05
				727		00	18	89
				724		00	01	15
				723		00	08	58
				709		00	01	83
				722		00	05	98
				711		00	05	41
				713		00	08	00
				714		00	03	42
				720		00	12	82
				719		00	15	87
				718		00	06	48
				746		00	27	83
				752		00	34	33
				782		00	24	41
				784		00	11	12
				785		00	31	56
				795		00	14	44
				798		00	00	90

1	2	3	4	5	6	7	8	9
			Pisad	66		00	61	34
				67		00	16	20
				71		00	00	74
				70		00	37	47
				78		00	25	71
			Saran	39		00	03	92
				40		00	14	81
				38		00	07	26
				41		00	12	02
				37		00	30	49
				51		00	16	80
				22		00	21	88
				20		00	19	78
				12		00	37	37
				17		00	21	38
				93		00	04	35
				92		00	25	72
				91		00	07	04
				109		00	09	01
				108		00	12	92
				110		00	00	33
				117		00	19	78
				150		00	00	05
				149		00	21	14
				166		00	16	55
				147		00	01	44
				167		00	24	28
				168		00	13	69
				169		00	51	50
				195		00	32	16
				190		00	51	86
				188		00	45	87
				240	1	00	02	77
			Sayakha	113		00	15	40
				114		00	08	94
				115		00	12	17
				116		00	10	04
				140		00	19	97
				141		00	86	31
				152		00	08	52
				154		00	07	87
				153		00	23	92
				166		00	18	39
				167		00	55	09
				170		00	41	50
				223		00	20	53
				409		00	15	33
				227		00	06	36
				228		00	08	94
				229		00	22	56
				232		00	25	69

1	2	3	4	5	6	7	8	9
			Sayaktra	255		00	37	60
			(Contd.)	256		00	24	09
				257		00	36	54
				270		00	33	05
				269		00	42	91
				276		00	16	67
				275		00	10	26
				277		00	21	61
				283		00	21	59
				285		00	16	49
				284		00	17	52
				410		00	22	21
				295		00	30	36
				308		00	19	32
				293		00	29	70
				310		00	29	51
						00	09	23
			Bharuch Amleshwar	1012		00	14	78
				1013		00	56	58
				1014		00	50	29
				1031		00	22	37
				1032		00	07	35
				1038		00	81	67
				1042		00	00	20
				1039		00	00	14
				1046		00	24	96
				1045		00	09	87
				951		00	07	26
				952		00	13	78
				941		00	06	35
				950		00	07	28
				942		00	68	25
				944		00	00	09
				946		00	02	51
				940		00	06	29
				945		00	32	04
				868		00	32	47
				891		00	56	77
				877		00	02	46
				876		00	18	47
				875		00	09	16
				872		00	15	21
				867		00	27	04
				861		00	13	16
				865		00	23	61
				864		00	09	55
				778		00	03	45
				779		00	48	32
						00	12	35
			Shankhwad	28		00	33	66
				40		00	01	22
				41		00	04	78
				42		00		
				72		00		

1	2	3	4	5	6	7	8	9
			Muslabed	317		00	13	06
			(Bhedbhat)	316		00	01	87
			(Contd.)	339		00	27	85
				340		00	07	83
				341		00	00	18
				337		00	19	10
				344		00	19	95
				376		00	19	78
				369		00	45	24
				375		00	00	42
				370		00	05	64
				371		00	06	90
				437		00	30	53
				436		00	03	28
				449		00	14	16
			Ankleshwar Chertula	351		01	52	36
				383		00	12	09
				381		00	08	99
				373		00	11	82
				372		00	15	20
				337		00	15	32
				338		00	08	38
				314		00	11	28
				330		00	25	98
				317		00	12	44
				316		00	32	18
				310		00	00	07
				319		00	23	34
				297		00	12	57
				296		00	18	11
				279		00	06	45
				280		00	05	95
				281		00	14	18
				282		00	00	66
				283		00	26	86
				284		00	13	96
				240		00	11	25
				175		00	07	47
				176		00	25	46
				177		00	15	61
				178		00	04	87
				179		00	12	43
				180		00	08	10
				133		00	08	87
				92		00	18	10
				91		00	17	63
				90		00	17	45
				62		00	07	67
				63		00	10	14
				60		00	07	15
				55		00	18	47
				54		00	09	59
				18		00	14	62

1	2	3	4	5	6	7	8	9
			Dhanturia	44		00	12	84
			(Contd.)	43		00	05	76
				42		00	56	90
				23		00	12	12
				24		00	02	84
				25		00	15	32
				28		00	00	36
				26		00	00	76
				27		00	23	76
				29		00	09	58
			Matiad	509		00	75	10
				510		00	89	19
				507		00	06	90
				550		00	24	99
				549		00	13	71
				548		00	12	88
				636		00	04	87
				638		00	04	19
				635		00	26	61
				639		00	15	36
				640		00	13	29
				642		00	14	62
				657		00	13	50
				658		00	23	59
				660		00	00	05
				661		00	18	91
				662		00	19	20
				669		00	01	02
				667		00	18	07
				666		00	15	90
				220		00	16	38
				219		00	33	74
				218		00	21	17
				217		00	26	47
				214		00	09	30
				209		00	17	12
				189		00	12	93
				190		00	10	07
				186		00	02	40
				179		00	18	57
				180		00	14	10
				181		00	01	99
				171		00	25	34
				170		00	19	85
				165		00	09	65
				164		00	09	97
				163		00	28	77
				130		00	19	45
	Hansot	Mothia		33		00	02	05
				57		00	15	42
				56		00	18	87
				59		00	09	80

1	2	3	4	5	6	7	8	9
			Mothia (Contd.)	60		00	07	24
				61		00	15	84
				62		00	08	79
				82		00	19	92
				83	A	00	18	26
				219		00	02	53
			Digas	583		00	05	31
				586		00	37	45
				609		00	21	77
				608	A	00	03	22
				608	B	00	18	18
				614	B	00	00	78
				615		00	25	92
				643		00	22	08
				616		00	00	72
				617		00	01	61
				642		00	07	50
				618		00	01	95
				619		00	02	01
				624		00	08	60
				526		00	33	55
				527		00	10	23
				532		00	07	86
				529		00	05	30
				531		00	32	81
				505		00	03	21
				503	A	00	11	60
				503	B	00	16	04
				492		00	25	51
				473		00	18	90
				470		00	16	64
				464		00	25	83
				450		00	23	98
				451		00	16	56
				452		00	03	80
				453		00	08	70
				454		00	15	73
				442		00	00	81
				440		00	20	41
				436		00	11	49
				437		00	15	78
				416	A	00	27	64
				416	B	00	07	99
				404		00	54	02
				403		00	12	16
				401		00	09	27
				402	B	00	06	05
				393		00	14	29
				316		00	18	58
				317		00	44	66
				347		00	13	06
				352		00	14	90
				354		00	18	83

1	2	3	4	5	6	7	8	9
			Digas	361		00	17	24
			(Contd.)	360		00	01	79
				338		00	23	26
				362		00	05	10
		Ankleshwar	Motwan	172		00	03	70
				173		00	17	32
				191		00	10	42
		Hansol	Kalam	28	F	00	14	39
				57		00	05	51
				58		00	04	90
				59		00	16	54
				60		00	15	74
				5		00	10	67
				61		00	19	86
				67	A/2	00	08	26
				67	B	00	03	23
				68		00	10	07
				69		00	06	95
				74		00	06	58
				75		00	18	99
				76		00	04	87
				78		00	31	07
				77		00	02	48
				84		00	37	42
				28	G	00	01	16
			Rohid	525	A	00	00	47
				523		00	13	62
				484		00	08	99
				495		00	07	43
				496		00	06	40
				521		00	14	55
				520		00	12	36
				519		00	12	77
				476	B	00	16	44
				476	A	00	06	03
				474		00	06	06
				500	A	00	00	05
				501	A	00	31	47
				502		00	15	47
				503		00	03	69
				393		00	12	52
				363		00	09	86
				364		00	02	76
				365		00	04	89
				366		00	14	82
				367		00	05	32
				369		00	06	27
				360		00	20	41
				264	B	00	06	73
				281		00	03	41
				280		00	04	08

1	2	3	4	5	6	7	8	9
			Rohid (Contd.)	278	A	00	15	93
				279		00	20	47
				285		00	00	05
				277	A	00	13	39
				268		00	14	70
				269	A	00	08	85
				269	B	00	01	34
				271		00	00	08
				270		00	10	93
				256	B	00	13	17
				255		00	09	59
			Kudadara	135		00	09	57
				153		00	00	05
				152		00	13	64
				145		00	16	12
				144		00	17	77
				143	A/2	00	10	73
				143	A/1	00	05	08
				143	A/3	00	01	49
				143	B/2	00	06	58
				139		00	08	44
				138		00	09	44
				137		00	07	92
				133		00	02	60
				82		00	13	57
				81		00	04	61
				86		00	09	11
				87		00	27	38
				88		00	23	86
				77		00	11	30
				75		00	09	58
				89		00	55	83
				92		00	00	34
				91		00	08	34
			Parvet	418		00	21	86
				417		00	11	89
				415		00	56	86
				413		00	05	09
				414		00	01	88
				288		00	29	54
				286		00	01	06
				287		00	21	72
				285		00	00	15
				319		00	09	70
				320		00	18	45
				325		00	00	23
				324		00	21	09
				327		00	03	46
				328		00	59	80
				333		00	03	21
				370		00	06	40
				368		00	21	49
				364		00	33	84
				363		00	22	33
				341		00	35	98
				342		00	05	13
				340		00	03	21

1	2	3	4	5	6	7	8	9
			Parvat (Contd.)	189		00	05	98
				188		00	03	84
				190		00	33	87
				186		00	04	84
				197		00	05	43
				198		00	15	13
				199		00	06	58
				200		00	15	77
				202		00	12	86
				203		00	01	87
				212		00	35	31
				211		00	00	65
				210		00	43	19
				152		00	06	48
				150		00	15	88
				148		00	05	07
				149		00	12	22
				135		00	37	23
				133		00	33	80
			Obha	183		00	13	22
				184		00	35	67
				185		00	03	07
				199		00	00	93
				171		00	21	84
				169		00	09	23
				168		00	19	32
				167		00	17	47
				217		00	08	15
				218		00	26	99
				219		00	01	34
				220		00	03	62
				161		00	22	01
				160		00	18	88
				144		00	00	47
				159		00	06	65
				146		00	02	39
				147		00	08	44
				158		00	02	94
				141		00	08	93
				156		00	21	95
				155		00	01	16
				126		00	00	94
				127		00	19	81
				128		00	08	86
				119		00	02	00
				118		00	20	07
				117		00	16	42
				112		00	08	85
				455		00	04	33
				456		00	23	97
				458		00	17	58
				73		00	08	62
				72		00	01	07
				70		00	20	79
				69		00	22	97
				47		00	23	59
				22		00	04	48

1	2	3	4	5	6	7	8	9
			Obha	23		00	04	50
			(Contd.)	46		00	04	05
				24		00	07	49
				25		00	08	24
				1249		00	03	51
				1203		00	01	37
				1248		00	08	57
				1247		00	04	49
				1246		00	08	90
				1204		00	05	93
				1207		00	07	02
				1208		00	13	93
				1211		00	07	14
				1212		00	02	66
				1215		00	26	41
				1216		00	00	05
				1143		00	02	34
				1142		00	08	93
				1141		00	03	71
				1129		00	05	07
				1133		00	00	05
				1130		00	00	05
				1131		00	06	81
				1132		00	17	43
				1123		00	08	01

[F. No. R-25011/1/2008-O.R.4]

S.K. CHITKARA, Under Secy.

नई दिल्ली, 24 अप्रैल, 2008

क्र. आ. 894.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में स्थापित कोयली - दहेज पाइपलाइन की शाखा आमोद से हजीरा तक पेट्रोलियम उत्पादन के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिनों के भीतर, भूमि के भीतर पाइपलाइन बिछाए जाने के संबंध में, श्रीमती आशा आर. शाह, सक्षम प्राधिकारी (गुजरात), इंडियन ऑयल कॉर्पोरेशन लिमिटेड, मकान नं. 3/122, गुजरात रिफाइनरी टाउनशिप, पी. आ. जवाहरनगर, वडोदरा - 391 320, (गुजरात) को लिखित रूप में आक्षेप भेज सकेगा।

અનુસૂચી

રાજ્ય	જિલ્લો	તાલુકો	ગાંવ	સર્વેક્ષણ સં. - સબ્ડ સં.	રૂપ - સબ્ડ સં.	ક્ષેત્રફલ		
1	2	3	4	5	6	હેક્ટેયર	એયર	વર્ગમીટર
ગુજરાત	સુરત	ઓલપાદ	કમરાણી	78		00	00	29
				80		00	09	62
				79		00	20	89
				80		00	13	11
				85		00	23	39
				234		00	16	06
				243		00	14	60
				242		00	06	82
				244		00	08	45
				246		00	21	31
				247		00	17	59
				248		00	04	52
				249		00	12	37
				250		00	23	07
				251		00	00	20
				250	A	00	16	37
				305		00	06	67
				297		00	45	01
				296		00	22	46
				294		00	28	46
				289		00	01	27
				290		00	04	05
				288		00	11	35
				285		00	24	73
				284		00	10	59
				283		00	16	31
			ચઢોલી	644		00	13	76
				645		00	02	53
				648		00	10	99
				651		00	00	29
				655		00	24	62
				656		00	13	75
				582		00	31	91
				583		00	01	27
				584		00	23	66
				624	A	00	17	10
				573		00	11	23
				574		00	16	74
				575		00	06	19
				576		00	33	60
				584		00	11	82
				583	B	00	10	29
				583	A	00	14	38
				589		00	00	81
				582		00	27	50
				580		00	22	79
				583	A	00	28	76
				170		00	01	33

1	2	3	4	5	6	7	8	9
	पारसीभादोल	199		P		00	22	41
		190				00	07	09
		198				00	42	55
		203				00	01	85
		204		A		00	40	90
		211				00	47	27
		214				00	05	52
		215				00	24	24
		217				00	07	23
		219		P		00	11	81
		220				00	00	05
		222		P		00	03	12
		222				00	22	94
		223				00	26	89
		240				00	11	37
		241				00	00	86
		239				00	13	00
		237				00	25	03
		238				00	00	96
		236				00	02	36
		231				00	17	80
		232				00	08	80
		255		A		00	40	75
		256				00	02	24
		257				00	06	06
	कणसी	149				00	07	08
		148		B		00	06	43
		207		B		00	20	79
		207		A		00	23	18
		199		A		00	19	62
		200				00	15	02
		195				00	17	52
		192				00	11	10
		193				00	22	33
		189				00	34	30
		188				00	17	36
		186				00	23	30
		184				00	05	13
	पीहारा	82				00	15	41
		109				00	22	20
		110				00	15	33
		104				00	02	27
		105				00	24	40
		102				00	19	93
		142				00	13	74
		141				00	01	81
		144				00	06	72
		143				00	06	32
		153				00	00	89
		154				00	24	46
		145				00	03	11
		162				00	16	79
		152				00	11	59

1	2	3	4	5	6	7	8	9
			बीहारा	151		00	36	50
			(जारी)	149		00	04	72
				179		00	16	06
				180		00	14	95
				183		00	03	52
				184		00	13	23
				185		00	11	42
				186		00	01	27
				189		00	22	37
				191		00	06	97
				196		00	00	78
				192		00	18	69
				193		00	05	59
			मोरघाण	202		00	03	06
				206		00	01	05
				205		00	11	03
				204		00	23	54
				203		00	14	00
				213		00	14	18
				201		00	15	67
				200		00	15	61
				199		00	17	61
				198		00	11	89
				191	P	00	21	86
				187	P	00	02	78
				188		00	26	69
				189		00	32	62
			अछारण	303		00	22	79
				314		00	35	44
				223		00	06	10
				235		00	30	76
				234		00	08	61
				237		00	34	12
				238		00	08	99
				248		00	26	76
				249		00	07	00
				250		00	01	06
				274		00	19	45
				275		00	00	66
				273		00	17	71
				252		00	20	89
				268		00	32	42
				265		00	01	96
			सांहीयेर	235		00	37	27
				233		00	23	85
				234		00	12	38
				230		00	12	95
				251		00	20	04
				252		00	21	63
				253		00	01	42
				249		00	08	86
				256		00	33	69

1	2	3	4	5	6	7	8	9
			सांख्यिक	287	A	00	30	24
			(जारी)	267	B	00	11	01
				289		00	21	55
				325		00	19	88
				324		00	21	78
				323		00	14	34
				314		00	01	63
				319		00	06	45
				317		00	02	31
				318		00	06	37
				352		00	21	99
				391		00	48	83
				390		00	05	59
				389		00	09	43
				388		00	10	94
				385		00	03	65
				384		00	04	97
				383		00	05	12
				382		00	08	62
				373		00	17	89
				381		00	02	79
				374		00	00	87
				380		00	10	95
				378		00	45	24
				420		00	11	81
				421		00	11	17
				422		00	18	76
				423		00	17	72
				424		00	35	87
				425		00	19	18
				426		00	03	68
			करमला	95		00	11	18
				84		00	01	89
				87		00	00	55
				82		00	03	69
				68		00	16	84
				64		00	28	28
				63		00	22	34
				62		00	00	05
				56		00	00	05
				57		00	27	88
				58		00	06	49
				53		00	18	21
				54		00	16	50
				55		00	12	39
			कोसम	298		00	09	09
				313		00	29	57
				314		00	03	97
				312		00	11	25
				311		00	06	04
				299		00	23	36
				300		00	11	21
				289	P	00	12	08

1	2	3	4	5	6	7	8	9
			कोसम	289		00	29	05
			(जारी)	259		00	00	46
				263		00	16	91
				280		00	26	59
				261		00	04	46
				230		00	10	31
				219		00	16	63
				218		00	02	79
				217		00	28	64
				223		00	00	17
				127		00	03	35
				128		00	04	19
				129		00	04	24
				130		00	00	28
				124		00	07	16
				123		00	21	31
				122		00	39	68
				116		00	05	04
			बडोद	229		00	24	39
				225		00	01	19
				235		00	06	14
				238		00	25	39
				237		00	21	17
				236		00	06	19
				239		00	00	05
			कनाद	159		00	03	69
				156		00	23	45
				155		00	08	10
				154		00	13	61
				180		00	02	63
				181		00	13	90
				182		00	15	14
				183		00	05	90
				153		00	00	13
				145		00	13	41
				144		00	25	13
				132		00	31	92
				133		00	00	27
				134		00	11	56
				135		00	26	45
				130		00	35	41
				126	A/3	00	18	23
				101		00	09	42
				125	C	00	21	65
				125	B	00	25	32
				125	A	00	19	95
				123		00	04	08
			सरोली	17		00	20	00
				15		00	22	02
				14		00	00	07
				21		00	31	65
				22		00	10	97
				29		00	11	83
				27		00	06	30

1	2	3	4	5	6	7	8	9
			सरोली	43		00	00	48
			(जारी)	45		00	28	88
				78		00	28	44
				74		00	13	28
				75		00	18	27
				110		00	22	01
				71		00	10	45
				70		00	11	87
				69		00	10	09
				68		00	15	88
				88		00	18	43
				197		00	17	22
				163		00	00	28
				196		00	02	14
				188		00	32	07
				169	P	00	15	57
				171		00	09	82
	बोयांसी	बीहल		31		00	00	05
				32		00	22	37
				34		00	51	63
				48		00	10	79
				1		00	18	79
				2		00	00	05
				7		00	13	19
				5		00	06	47
				8		00	18	82
				8		00	23	22
		यणकला		110		00	01	82
				151	P	00	23	28
				150		00	12	42
				149		00	11	63
				152	P	00	04	28
				152		00	18	58
				158		00	15	05
				157		00	02	63
				155		00	25	15
				33		00	00	42
				32		00	08	16
				2		00	00	42
				31		00	15	98
				30		00	25	48
				29		00	13	19
				3		00	00	05
				28	P	00	05	65
				27		00	07	27
				28		00	42	76
				23		00	10	70
				21		00	01	89
				20	P	00	03	12
	ओखा			84		00	03	80
				86		00	11	27
				87		00	16	73
				91		00	27	45
				90		00	09	95
				95		00	22	62
				94		00	15	28

1	2	3	4	5	6	7	8	9
			औरवा (पारी)	108		00	35	49
				107		00	16	81
				106		00	07	26
				105		00	13	41
				104		00	25	13
	ओलपाड	सेगवाछामा		405		00	06	18
				406		00	19	01
				401		00	22	42
				400		00	19	50
				418		00	01	20
				386	P	00	25	16
				399		00	00	05
				363		00	22	15
				364		00	03	45
				363		00	00	72
				316		00	33	40
				301 to 310		00	18	01
				317 to 320		00	09	85
				299		00	25	63
				275 to 298		00	24	36
				264		00	08	44
				265		00	06	84
				263		00	00	91
				266		00	34	50
				248		00	00	46
				249		00	11	75
				253		00	10	91
				256		00	16	36
	घोर्वासी	भेसाण		472		00	25	39
				471		00	06	07
		मलगाभा		105		00	20	40
				106		00	05	30
				106		00	15	27
				115		00	17	31
				109		00	04	48
				114		00	23	65
				116		00	26	74
				117		00	09	93
				118		00	10	29
				119		00	17	99
				120		00	07	06
				121		00	05	68
				122		00	05	44
				123		00	13	60
				219		00	83	67
				222		00	25	87
				221		00	08	27
				223		00	01	50
		आसरमा		5		00	01	47
				4		00	22	04
				2		00	11	60
				11		00	04	66
				1		00	30	72

1	2	3	4	5	6	7	8	9
			इच्छापोर	877		90	18	22
				878		00	37	10
				927		00	00	32
				879		00	13	72
				926		00	24	40
				923		00	14	40
				924		00	24	90
				918		00	16	17
				892		00	10	80
				914		00	10	28
				893		00	11	47
				894		00	04	56
				781		00	17	95
				780		00	10	19
				783		00	16	27
				784		00	01	55
				779		00	09	16
				538		00	03	80
				542		00	24	38
				541		00	01	51
				554		00	41	18
				622		00	08	58
				620+621		00	10	57
				619		00	17	07

[फा. सं. आर-25011/1/2008-ओ.आर.-1]

एस. के. चिटकारा, अवर सचिव

New Delhi, the 24th April, 2008

S. O. 894.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of Petroleum Products from Amod (Ex. Existing Koyali to Dahej Pipeline) to Hazira in the State of Gujarat, a branch pipeline should be laid by the Indian Oil Corporation Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Smt. Asha R. Shah, Competent Authority, Indian Oil Corporation Limited, at office Qtrs. No 3/122, Refinery Township, P.O. Jawaharnagar, Vadodara – 391 320 (Gujarat).

SCHEDULE

State	District	Taluka	Village	Survey / Block No.	Sub-Division No.	Area		
						Hect.	Ac.	Sq.mtr.
1	2	3	4	5	6	7	8	9
Gujarat	Surat	Olpad	Umrauchi	78		00	00	29
				88		00	09	82
				79		00	20	89
				80		00	13	11
				86		00	23	30
				234		00	16	08
				243		00	14	60
				242		00	06	82
				244		00	09	45
				245		00	21	31
				247		00	17	58
				248		00	04	52
				249		00	12	37
				250		00	23	07
				251		00	00	20
				250	A	00	16	37
				305		00	06	87
				297		00	25	02
				295		00	22	46
				294		00	28	45
				289		00	01	27
				290		00	04	05
				286		00	11	35
				285		00	24	73
				284		00	10	59
				283		00	18	31
			Vadod	644		00	13	76
				645		00	02	53
				648		00	10	99
				651		00	00	29
				655		00	24	62
				656		00	13	75
				662		00	31	91
				663		00	01	27
				664		00	23	65
				624	A	00	17	10
				573		00	11	23
				574		00	18	74
				575		00	06	19
				576		00	33	60
				584		00	11	82
				583	B	00	10	29
				583	A	00	14	38
				589		00	00	81
				582		00	27	50
				580		00	22	79
				593	A	00	28	76
				170		00	01	33

1	2	3	4	5	6	7	8	9
			Pardibhadol	199	P	00	22	41
				190		00	07	09
				198		00	42	55
				203		00	01	86
				204	A	00	40	90
				211		00	47	27
				214		00	06	82
				215		00	24	24
				217		00	07	23
				219	P	00	11	81
				220		00	00	06
				222	P	00	03	12
				222		00	22	94
				223		00	26	89
				240		00	11	37
				241		00	00	66
				239		00	13	00
				237		00	25	03
				238		00	00	96
				236		00	02	38
				231		00	17	80
				232		00	06	80
				255	A	00	40	75
				256		00	02	24
				257		00	06	06
			Kanbhi	149		00	07	08
				148	B	00	08	43
				207	B	00	20	78
				207	A	00	23	18
				199	A	00	19	62
				200		00	15	02
				186		00	17	52
				192		00	11	10
				193		00	22	33
				189		00	34	30
				188		00	17	38
				186		00	23	30
				184		00	05	13
			Vihara	92		00	15	41
				109		00	22	20
				110		00	16	33
				104		00	02	27
				105		00	24	40
				102		00	19	93
				142		00	13	74
				141		00	01	61
				144		00	08	72
				143		00	08	32
				153		00	00	89
				154		00	24	46
				145		00	03	11
				162		00	16	79
				152		00	11	59

1	2	3	4	5	6	7	8	9
			Vihara (Contd.)	151		00	36	50
				149		00	04	72
				179		00	16	06
				180		00	14	95
				183		00	03	52
				184		00	13	23
				185		00	11	42
				188		00	01	27
				189		00	22	37
				191		00	06	97
				196		00	00	78
				192		00	18	69
				193		00	05	59
			Morthan	202		00	03	06
				206		00	01	05
				206		00	11	03
				204		00	23	54
				203		00	14	00
				213		00	14	18
				201		00	15	67
				200		00	15	61
				199		00	17	81
				196		00	11	89
				191	P	00	21	86
				187	P	00	02	78
				188		00	26	69
				189		00	32	62
			Achhauran	303		00	22	79
				314		00	35	44
				223		00	06	10
				235		00	30	76
				234		00	08	61
				237		00	34	12
				238		00	08	99
				248		00	26	76
				249		00	07	00
				250		00	01	06
				274		00	19	45
				275		00	00	66
				273		00	17	71
				252		00	20	89
				268		00	32	42
				265		00	01	96
			Sandhar	235		00	37	27
				233		00	23	85
				234		00	12	38
				230		00	12	95
				251		00	20	04
				252		00	21	63
				253		00	01	42
				249		00	08	86
				256		00	33	69

1	2	3	4	5	6	7	8	9
			Sandhar	267	A	00	30	24
			(Contd.)	267	B	00	11	01
				269		00	21	55
				325		00	19	56
				324		00	21	76
				323		00	14	34
				314		00	01	63
				319		00	08	45
				317		00	02	31
				318		00	06	37
				352		00	21	99
				391		00	48	83
				390		00	05	58
				389		00	08	43
				388		00	10	94
				385		00	03	65
				384		00	04	97
				383		00	05	12
				382		00	08	62
				373		00	17	89
				381		00	02	79
				374		00	00	87
				380		00	10	95
				378		00	45	24
				420		00	11	81
				421		00	11	17
				422		00	16	75
				423		00	17	72
				424		00	35	67
				425		00	19	18
				426		00	03	56
			Karmala	95		00	11	18
				84		00	01	89
				67		00	00	55
				82		00	03	69
				68		00	16	84
				64		00	28	28
				63		00	22	34
				62		00	00	05
				66		00	00	05
				57		00	27	86
				58		00	08	49
				53		00	16	21
				54		00	16	50
				55		00	12	39
			Kosam	296		00	06	09
				313		00	29	57
				314		00	03	97
				312		00	11	25
				311		00	06	04
				298		00	23	36
				300		00	11	21
				289	P	00	12	08

1	2	3	4	5	6	7	8	9
			Kosam	289		00	29	05
			(Contd.)	259		00	00	46
				283		00	18	91
				280		00	25	59
				281		00	04	48
				230		00	10	31
				219		00	16	63
				218		00	02	79
				217		00	26	64
				223		00	00	17
				127		00	03	35
				128		00	04	19
				129		00	04	24
				130		00	00	28
				124		00	07	18
				123		00	21	31
				122		00	39	66
				116		00	05	04
			Vadod	228		00	24	39
				225		00	01	19
				235		00	06	14
				238		00	25	39
				237		00	21	17
				236		00	06	19
				239		00	00	05
			Kanad	159		00	03	69
				156		00	23	45
				155		00	06	10
				154		00	13	61
				180		00	02	63
				181		00	13	90
				182		00	15	14
				183		00	05	90
				153		00	00	13
				145		00	13	41
				144		00	25	13
				132		00	31	92
				133		00	00	27
				134		00	11	56
				135		00	26	45
				130		00	35	41
				128	A/3	00	18	23
				101		00	09	42
				125	C	00	21	65
				125	B	00	25	32
				125	A	00	19	95
				123		00	04	08
			Sarol	17		00	20	00
				15		00	22	02
				14		00	00	07
				21		00	31	65
				22		00	10	97

1	2	3	4	5	6	7	8	9
			Saroli (Contd.)	28		00	11	63
				27		00	06	30
				43		00	00	48
				45		00	26	86
				76		00	26	44
				74		00	13	28
				75		00	18	27
				110		00	22	01
				71		00	10	46
				70		00	11	87
				68		00	10	09
				68		00	15	99
				98		00	18	43
				197		00	17	22
				165		00	00	29
				196		00	02	14
				168		00	32	07
				169	P	00	15	67
				171		00	09	82
	Choryasi	Vihai		31		00	00	05
				32		00	22	37
				34		00	51	63
				46		00	10	79
				1		00	18	79
				2		00	00	05
				7		00	13	19
				5		00	08	47
				6		00	18	82
				8		00	23	22
		Vankala		110		00	01	82
				151	P	00	23	28
				150		00	12	42
				149		00	11	63
				152	P	00	04	26
				152		00	18	56
				156		00	15	05
				157		00	02	83
				155		00	25	16
				33		00	00	42
				32		00	06	18
				2		00	00	42
				31		00	16	98
				30		00	25	48
				29		00	13	19
				3		00	00	05
				28	P	00	05	65
				27		00	07	27
				26		00	42	76
				23		00	10	70
				21		00	01	89
				20	P	00	03	12
	Okha			84		00	03	80

1	2	3	4	5	6	7	8	9
			Okha	86		00	11	27
			(Contd.)	87		00	16	73
				91		00	27	45
				90		00	09	95
				95		00	22	62
				94		00	15	28
				108		00	35	49
				107		00	16	81
				106		00	07	26
				106		00	13	41
				104		00	25	13
		Olpad	Segwachhama	405		00	06	16
				406		00	19	01
				401		00	22	42
				400		00	19	50
				418		00	01	20
				385	P	00	25	16
				399		00	00	05
				383		00	22	15
				384		00	03	45
				363		00	00	72
				316		00	33	40
				301 to 310		00	16	01
				317 to 320		00	09	85
				299		00	25	63
				275 to 298		00	24	36
				284		00	08	44
				265		00	06	84
				263		00	00	91
				268		00	34	50
				248		00	00	46
				249		00	11	75
				253		00	10	91
				256		00	16	38
		Choryasi	Bheshan	472		00	25	39
				471		00	06	07
			Maigama	105		00	20	40
				106		00	05	30
				108		00	15	27
				115		00	17	31
				109		00	04	48
				114		00	23	65
				116		00	26	74

1	2	3	4	5	6	7	8	9
			Malgama (Contd.)	117		00	09	93
				118		00	10	29
				119		00	17	99
				120		00	07	06
				121		00	05	08
				122		00	05	44
				123		00	13	80
		MFFI		219		00	83	67
				222		00	25	87
				221		00	08	27
				223		00	01	50
			Asama	5		00	01	47
				4		00	22	04
				2		00	11	60
				11		00	04	88
				1		00	30	72
			Ichhapor	877		00	16	72
				878		00	37	10
				927		00	00	32
				879		00	13	72
				928		00	24	40
				923		00	14	40
				924		00	24	90
				918		00	16	17
				892		00	10	00
				914		00	10	26
				893		00	11	47
				894		00	04	58
				781		00	17	95
				780		00	10	19
				783		00	16	27
				784		00	01	55
				779		00	09	16
				538		00	03	80
				542		00	24	38
				541		00	01	51
				554		00	41	18
				622		00	08	58
				620+821		00	10	67
				619		00	17	07

[F. No. R-25011/1/2008-O.R.-I]
S.K. CHITKARA, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 27 मार्च, 2008

का.आ. 895.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II), धनबाद के पंचाट (संदर्भ संख्या 116/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-3-2008 को प्राप्त हुआ था।

[सं. एल-20012/519/2000-आई आर(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 27th March, 2008

S.O. 895.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.116/2001) of the Central Government Indus.Tribunal (No.11) Dhanbad now as shown in the Annexure, in the Industrial Dispute between the management of M/s. B.C.C.L., and their workman, which was received by the Central Government on 27-3-2008.

[No. L-20012/519/2000-IR(C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. II) AT DHANBAD
PRESENT

Shri Nagendra Kumar, Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1)(d) of the I.D. Act., 1947.

REFERENCE No. 116 OF 2001

PARTIES Employers in relation to the management of BCCL and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Mr. D. K. Verma,

Advocate.

State : Jharkhand Industry : Coal

Dhanbad, the 14th March, 2008

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/519/2000 (C-1), dated, the 29th March, 2001.

SCHEDULE

"Whether the action of the management of M/s. BCCL in not providing employment to Shri Baliraj Bhuiya and Shri Mani Raj Bhuiya on compassionate ground on the death of their parents Late Bandhu Bhuiya

shale picker & Late Rajo Bhuiya shale picker of Alkusha Colliery under Kustore Area is Justified, legal and proper? If not, to what relief are the said dependents of the workmen entitled?"

2. The case of the concerned workmen in short is that late Rajo Bhuiya and late Bandhu Bhuiya were serving under the management of Alkusha Colliery as Shale Picker. Rajo Bhuiya died on 20-3-89 and late Bandhu Bhuiya died on 10-8-92. The dependents of the deceased workmen were not adult at the time when their parents died. The eldest son Jayraz Bhuiya was alive at the time of death of Rajo Bhuiya who was his another son. An application was filled up but Jayraz Bhuiya died on 12-7-1990 before furnishing the same. Bandhu Bhuiya had become upset and was hospitalised and died on 10-8-92. The dependent of the deceased workmen were not adult at the time of their death hence the employment could not be given and submitted application. Prayer has been made to pass award directing the management to provide employment to Baliraj Bhuiya and Sri Maniraj Bhuiya in place of their parents late Bandhu Bhuiya and late Rajo Bhuiya under the provisions of N.C.W.A. with back wages and other reliefs.

3. The case of the management in short is that the reference is not maintainable. The sponsoring union has got no locus standi to raise industrial dispute. No employer and employee relationship exists between the persons concerned. The concerned persons are not entitled for employment in view of the judgement of the Hon'ble Apex Court due to lapse of time as well as in accordance with principles of NCWA which is purely for appointment on compassionate ground and which cannot be considered after expiry of reasonable period. The parents of the concerned persons had died much earlier. The concerned persons had applied for employment after a lapse of 9 years. Prayer has been made holding that the action of the management is justified and legal and the concerned persons are not entitled to get any relief.

4. From perusal of record it appears that the rejoinder to the W. S. of the management has not been filed.

5. POINTS TO BE DECIDED

"Whether the action of the management of M/s. BCCL in not providing employment to Shri Baliraj Bhuiya and Shri Mani Raj Bhuiya on compassionate ground on the death of their parents Late Bandhu Bhuiya shale picker and Late Rajo Bhuiya shale picker of Alkusha Colliery under Kustore Area is justified, legal and proper? If not, to what relief are the said dependents of the workmen entitled?"

6. FINDING WITH REASONS

It appears from the record that inspite of giving sufficient opportunities the concerned workmen have neither produced any witness nor got the documents exhibited in support of their claim. The onus lies upon the concerned workmen to establish their case before this Tribunal which has not been done by the concerned

workmen. Therefore, they are not entitled to get any relief as prayed. In the result, the following Award is rendered:—

“Whether the action of the management of M/s. BCCL in not providing employment to Shri Baliraj Bhuiya and Shri Mani Raj Bhuiya on compassionate ground on the death of their parents Late Bandhu Bhuiya Shale picker & Late Rajo Bhuiya shale picker of Alkusha Colliery under Kustore Area is justified, legal and proper. Consequently, they are not entitled to get any relief.”

NAGENDRA KUMAR, Presiding Officer

नई दिल्ली, 27 मार्च, 2008

क्र.आ. 896.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रबंधक के संबंध निवृत्तकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. II), धनबाद के पंचाट (संदर्भ संख्या 74/2000) को प्रकटित करती है, जो केन्द्रीय सरकार को 27-3-2008 को प्राप्त हुआ था।

[सं. एल-20012/51/2000-आई आर(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 27th March, 2008

S.O. 896.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 74/2000) of the Central Government Industrial Tribunal (No. II) Dhanbad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L., and their workmen, which was received by the Central Government on 27-3-2008.

[No. L-20012/51/2000-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. II) AT DHANBAD

PRESENT:

Shri Nagendra Kumar, Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1)(d) of the I.D. Act, 1947.

REFERENCE No. 74 of 2000

Parties : Employers in relation to the management of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman

Mr. D. Mukherjee,
Secretary,
Bihar Colliery
Kamgar Union.

On behalf of the Management

Mr. H. Nath
Advocate.

State : Jharkhand

Industry : Coal

Dhanbad, the 14th March, 2008

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/51/2000 (C-1), dated, the 24th July, 2000.

SCHEDULE

“Whether the demand of the union to regularise Sri Ramesh Chandra Gope as Office Peon with pay-protection of Group-VA wages and other consequential benefits is proper and justified? If so, to what relief is the concerned workman entitled and from what date?”

2. The case of the concerned workman in short is that he was originally appointed as permanent Miner/Loader in Group-VA on September, 1983. He started to work as Pump Operator against permanent vacancy. The management started to pay him Cat. III wages without protecting his Group VA wages which was objected by the concerned workman. The management assumed for a favourable decision. During the course of employment the concerned workman received serious injury. He was referred to Patna for specialised treatment. He was under treatment of Dr. Mukhopadhyaya. Thereafter he was referred to Ahmedabad for further specialised treatment. Both the doctors recommended for light duty as he was unable to perform the duties of Pump Operator. He was under treatment from 1992 to February, 1995. The management allowed him to join his duty as Peon. He worked continuously as permanent Peon against permanent vacancy and he has put 240 days attendance in each calendar year. He has been working as Peon since March, 1995 continuously. He represented before the management several times for his regularisation as Peon with protection of his original Group VA wages but without any effect. As per provision of NCWA he is entitled for regularisation as Peon. The management failed to take any action on the prayer of the concerned workman; he then raised industrial dispute before the ALC (C) which ultimately resulted reference to this Tribunal. Prayer has been made to answer the reference in favour of the concerned workman by awarding regularisation as Peon with protection of Group VA wages and other consequential benefits.

3. The case of the management in short is that the reference is not maintainable. The concerned workman is a permanent workman of Bhatdee Colliery designated as Miner /Loader. He was never directed to work as Pump Operator and the management never paid him Cat. III wages and he is still getting wages of Group-VA wages. The management has provided the concerned workman light duty on surface in view of his injury. He is still getting Group VA wages which is more the job which he is performing. Since the concerned workman is not workman is not working as Peon question of regularisation on the said post with protection of wages does not arise.

4. In the rejoinder portion the statement made in para-2, 3, 10, 11, 12, and 13, 14, 15, 16, 17, have been denied. It has been stated that the concerned workman is not entitled for any relief.

5. In the record there is no rejoinder to the W. S. filed by the management.

6. POINTS TO BE DECIDED

"Whether the demand of the union to regularise Sri Ramesh Chandra Gope as Office Peon with pay-protection of Group-VA wages and other consequential benefits is proper and justified? If so, to what relief is the concerned workman entitled and from what date?"

FINDING WITH REASONS

7. It appears from the record that inspite of giving sufficient opportunities the concerned workman has neither produced any witness not got the documents exhibited in support of his claim. The burden of proof rests upon the concerned workman to establish his case before this Tribunal which has not been done in the instant case. Therefore, he is not entitled to get any relief as prayed for. In the result, the following Award is rendered :—

"The demand of the union to regularise Sri Ramesh Chandra Gope as Office Peon with pay-protection of Group-VA wages and other consequential benefits is not proper and not justified. Consequently, the concerned workman is not entitled to get any relief."

NAGENDRA KUMAR, Presiding Officer

नई दिल्ली, 31 मार्च, 2008

क्र.अ. 897.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. पी. डब्ल्यू. डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 131/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-2008 को प्राप्त हुआ था।

[सं एल-42012/135/93-आई आर(डी.यू.)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 31st March, 2008

S.O. 897.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 131/94) of the Central Government Industrial Tribunal—Cum Labour Court, No. II, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of C.P.W.D., and their workmen, which was received by the Central Government on 31-3-2008.

[No. L-42012/135/93-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL-CUM LABOUR COURT-II, NEW DELHI

I.D. NO. 131/1994

PRESIDING OFFICER : R. N. RAI
IN THE MATTER OF :

Sh. Rishi Pal,
C/o. Regional Secretary,
All India CPWD Employees' Union,
Lodhi Colony, Inquiry Office,
CPWD, New Delhi.

—Claimant

VERSUS

The Executive Engineer,
"R" Division, CPWD, New Delhi.

—Respondents

AWARD

The Ministry of Labour by its letter No. L-42012/135/93 IR(DU) Central Government did. 16-11-1994 has referred the following point for adjudication :

The point runs as hereunder :—

"Whether Executive Engineer, R. Division, CPWD, New Delhi was justified in not placing Sh. Rishi Pal as Inquiry Clerk and paying the regular wages /scale ? If not, to what relief the concerned workman is entitled to."

The workman applicant has filed claim statement. In the claim statement it has been stated that Rishi Pal S/o. Sh. Baljit Giri has been working in "R" Division, CPWD, New Delhi since 01-04-1986 and is workman as per the definition under section 2(s) of the ID Act, 1947.

That the Executive Engineer "R" Division, CPWD, New Delhi is employer as per the definition under Section 2(s) of the ID Act, 1947.

That the CPWD is an Industry under Section 2g of the ID Act, 1947.

That Shri Rishi Pal has been performing the duties of Inquiry Clerk on Muster Roll and fulfilling the required conditions of recruitment of the inquiry clerk.

That the employer has been wrongly paying the wages of Beldar since the employment.

That all the efforts from Sh. Rishi Pal and this Union to get justice have remained fruitless.

That the workman has wrongly been designated as Beldar instead of Inquiry Clerk, particularly when the workman has been performing the duty of Inquiry Clerk.

That the workman should be designated as Inquiry Clerk instead of Beldar.

That the wages of the workman should be given as that of an inquiry clerk and the difference of wages between Beldar and Inquiry Clerk should be paid to the workman.

That suitable penalty should be imposed on the employer for doing injustice with the workman.

The management has filed written statement. In the written statement it has been stated that the Executive Engineer, CPWD, R. Division, New Delhi has no independent legal entity. It is part and parcel of the union of India. The M/o. Urban and Employment Affairs, Department of CPWD, headed by the Director General (Works) as one of its subordinate offices. Unless these controlling authorities are made parties, the dispute in question cannot be adjudicated upon. Therefore, the claim is bad for non-joinder and misjoinder of necessary parties and therefore, the same is liable to be dismissed.

That the claim has neither been filed by the workman concerned nor is the same verified by him. Likewise, the union involved in the alleged dispute is not competent or authorized to file the instant dispute. In addition to the submission herein, the alleged claim under reply has not been preferred within stipulated period and in the manner prescribed under Rule 10(B) of the ID (Central) Rule, 1957 nor any sufficient reasons for not preferring the claim in prescribed manner has been explained. As such the claim is not maintainable on this ground as well.

That the workman has no cause of action and is not entitled for the relief prayed for.

It is stated that the averments therein are misleading and result of intentional concealment of material facts by the claimant. It is stated that the workman was, in fact, engaged w.e.f. 1-4-1986 as Daily Rated Casual Labour purely on temporary basis on Muster Roll and he has accepted the employment as Muster Roll Beldar at his free-will. The fact has intentionally been suppressed by the workman/claimant.

That it is patently wrong that the workman has been performing his duties as an Inquiry Clerk. In fact, the workman has been performing his duties as daily wage on muster roll. It is specifically mentioned that the workman does not fulfill the terms and conditions for recruitment as Inquiry Clerk. It is stated that even if it is presumed that the workman sometimes performed duties of Inquiry Clerk such assignment of job was neither lawful nor had the same sanction of competent authority. It is stated that there is no provision for engaging the Inquiry Clerk on muster roll basis in the department of CPWD and the fact has very well been in the knowledge of the workman. The workman

knowingly signed the related terms and conditions for appointment as Beldar every month.

It is submitted that the representations of the workman as well as the union representative as regards regularization of workman as Inquiry Clerk were considered by the competent authority and the same was not acceded to as the workman did not fulfill the terms and conditions prescribed for recruitment as Inquiry Clerk in the public interest. It is reiterated that the workman cannot be regularized as Inquiry Clerk in violation of the prescribed terms and conditions to the particular post. Acceding to such request of the workman would adversely affect the administrative function and discipline amongst the staff members.

That it is vehemently denied that the workman has been wrongfully been designated as Beldar instead of Inquiry Clerk. It is stated that since the workman had worked for more than 240 days in each calendar year and fulfilled the conditions of regularization in the grade of Beldar against which he was engaged and worked, offer of regular appointment was given to the workman as Beldar and the same was duly accepted by him. As such further claim of the workman for his regularization as Inquiry Clerk and payment therefore, can be accepted as hereinabove explained. It is stated that such material suppression of facts be kindly looked into to test the veracity of the claim of the workman.

The workman has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

It was submitted from the side of the workman that the workman was performing duties of Inquiry Clerk. He entered the complaints in the complaint register of E - Block inquiry in his own handwriting from 1-4-1986 to January, 1993.

It was submitted from the side of the management that the claimant was engaged as daily rated casual labour purely on temporary basis on muster roll and has accepted the employment of muster roll Beldar as his free will. He was appointed Beldar on temporary basis by appointment letter dated 01-12-1992. He was assigned the role of muster roll as Beldar by the management. He was paid wages as Beldar for the period 21-12-1992 to 20-1-1993. The Sub-divisional Officer, MW1/3 and MW1/4 has examined the work assigned to the workmen engaged on muster roll and payment to them was made accordingly.

It was further submitted that by letter dated 15-2-1993 the workman was regularized as Beldar from 5-2-1993 by the management and the workman on 6-2-1993 joined as Beldar.

It was further submitted that the workman sometimes performed duties of Inquiry Clerk but such assignment of job was neither lawful nor had the same sanction of competent authority.

It was further submitted that there is no provision for engaging any Inquiry Clerk on muster roll basis in the department. The workman knowingly signed the related terms and conditions for appointment as Beldar every month.

It was further submitted that there is no valid and legal espousal.

From perusal of the records it transpires that the workman has been mentioned in documents Ex.MW/1 to Ex.MW/15 as Beldar and he has received payment as Beldar. The work of Beldar was assigned to him.

It transpires from perusal of Paper No.67 (photocopy) dated 10-02-1992 that the Assistant Engineer (IR) Division, CPWD, New Delhi has forwarded the representation of Sh. Shyam Lal and Sh. Rishi Pal, muster roll Beldar regarding their willingness to discharge the duties of Inquiry Clerk. It is also quite vivid from letter dated 19-05-1992 sent by the workman, Sh. Rishi Pal that he has made representations for being regularized as Inquiry Clerk.

The workman was initially engaged as Beldar and he has accepted his designation as Beldar. He has received payment as Beldar and he was regularized in 1993 at the post of Beldar. He has also accepted his regularization. The records further disclose that the workman has discharged the duties of entering the complaints in the complaint register maintained for the same. The management has also admitted that sometimes due to increase of work load the workman was entrusted with the work of registering complaints in the complaint register of E-Block.

The workman was initially engaged as Beldar in 1986. He has been given the regular status of Beldar in 1992 and his services have been regularized as Beldar in 1993. Even if it is admitted that he entered the complaints in the complaint register it cannot be said that he should be regularized as Inquiry Clerk. It appears that some Beldars have also entered the complaints in the complaint register for sometimes. They have performed the duties of the Inquiry Clerk.

In case their initial engagement is at the post of Beldar, they have been given the temporary status at the post of Beldar and they have received payment of Beldar. No right accrued to them for regularization as Inquiry Clerk on the basis of registering complaints in the complaint register as there is no post of Inquiry Clerk in the department. Regularization is always ordered against sanctioned post. There is no designation of Inquiry Clerk in the management.

My attention was drawn to OA dated 05-05-1993. The Hon'ble CAT has directed for regularization of Sh. Ramesh Chandra, Ram Nath Singh and Sh. Man Singh Rajput who worked as typist or Dispatch Clerk. These workmen worked as Typist, Inquiry Clerk and Dispatch

Clerk and the CAT has ordered the management to consider the case of regularization in view of circular dated 14-07-1988 issued by the Dy. Director of Admn. The workman has pleaded that he is entitled to be regularized in view of circular dated 14-07-1988. The CAT has based his findings on the circular dated 14-07-1988 in which it has been mentioned that the workman may be regularized in higher category even if he worked in lower category for sometimes subject to the conditions that the services rendered in the lower categories would not be counted for the purpose of seniority. Circular dated 14-07-1988 is not attracted in this case as such the relief granted by the CAT in 1993 cannot be extended to this workman.

It was further submitted from the side of the workman that the management has violated the principles of equal pay for equal work. The workman worked as Inquiry Clerk so he should be made payment of the initial salary of Inquiry Clerk.

It was submitted from the side of the management that the workman was engaged as Beldar. He worked as Beldar. For sometimes he was entrusted with the work of entering complaints in the complaint register so he is not entitled to equal pay for equal work.

It was submitted from the side of the workman that in view of 1966 LW 134, AIR 1991 page 173 and in view of Directive Principles of State policy has confirmed in Article 30(d) of the Constitution a casual workman cannot be denied the same salary of Class - III employees when he performed the same duties on regular basis. There should be equal pay for equal work and it should be treated as a fundamental right in service jurisprudence.

It has been held in (2003) 6 SCC 123 as under:—
“The principle of ‘equal pay for equal work’ is not always easy to apply. There are inherent difficulties in comparing and evaluating the work done by different persons in different organizations, or even in the same organization. It is a concept which requires for its applicability complete and wholesale identity between a group of employees claiming identical pay scales and the other group of employees who have already earned such pay scales. The problem about equal pay cannot always be translated into a mathematical formula.

It is obvious from the judgment that the principles of equal pay for equal work cannot be applied everywhere. A daily wage holds no post. Scale of pay is attached to a definite post. This workman was not holding any definite post, so he cannot be compared with the regular and permanent staff for equal pay and allowances.

It has been further held in (2003) 1 SCC 250 as under:—
“Equal pay for equal work - applicability of the principle of, held, depends not only on the nature or volume of work but also on the qualitative difference in reliability and responsibilities as well - Even in case of same functions, responsibilities do make a real and substantial difference - It is for the claimant of parity to substantiate a clear-cut

basis of equivalence and a resultant hostile discrimination— In absence of requisite substantiating material, High Court erred in granting the NMR workers/daily wagers/casual workers parity in pay with the regularly employed staff merely on presumption of equality of the nature of work— However, such workers, held, entitled to payment of prescribed minimum wages.”

It has been held in this case that equal pay for equal work would depend upon not only the nature or the volume of work but also on the qualitative difference as regards reliability and responsibilities though the functions may be the same.

It transpires from perusal of the records that the workman discharged the duties of Inquiry Clerk incidentally. The job of registering complaints is to be done by the Jr. Engineer. The workman has been entrusted with the work of entering the complaints in the complaint register temporarily by the Jr. Engineer. The workman was initially engaged as casual labour and his services have been regularized as Belder. Incidentally performing the duties of Inquiry Clerk does not entitle him to regularization at the post of Inquiry Clerk as the workman was initially engaged as casual labour and he has been regularized as Belder.

The reference is replied thus:

The Executive Engineer, R. division, CPWD, New Delhi was justified in not placing Sh. Rishi Pal as Inquiry Clerk and paying the regular wages/scale. The workman is not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 19-3-2008

R. N. RAI, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

कर.आ. 898.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ग्राम न्यायालय, न.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 363/2005) को प्रेषित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था:

[सं. एल-40012/225/2002-आई आर(डी. यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 898.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 363/2005) Central Government Industrial-Tribunal-cum labour Court, No. II Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 2-4-2008.

[No. L-40012/225/2002-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, SECTOR 18-A, CHANDIGARH

PRESIDING OFFICER: SHRI KULDIP SINGH

CASE I.D. NO: 363/2K5

Registered on: 18-8-2005

Date of Decision: 14-3-2008

Jaswinder Kumar S/o Ram Lubhya,
House No 2160, Sector C, Chandigarh —PETITIONER

Versus

Principal General Manager, Telecom,
Telephone Deptt, Sector 18-A,
Chandigarh. —RESPONDENT

APPEARANCE

For the Workman Mr. Arun Kumar Batra, Advocate
For the Management Mr. G. C. Babbar, Advocate

AWARD

The workman continues to be absent. For the Management also no body is present. The record of the file shows that the workman has not appeared in person after 21 st of Feb. 2007. He filed the authority letter of his counsel but the counsel also stopped appearing after 4th of May, 2007 reporting no instructions. The workman did not file his affidavit despite repeated directions and has also not produced any evidence to support his claim made in the Statement of Claim. The Management has denied the assertions made by the workman, by their written statement duly supported by the affidavit of Shri Anil Kumar, SDE, C/M-I, Chandigarh. The Management has denied even the relationship of employee and employer between the parties. As against to it the workman has not produced any evidence. So much so he himself has not come in the witness box to re-iterate the facts stated by him in his statement of claim.

On record I do not find any evidence to show that the Management of Department of Telecom, Chandigarh had engaged the workman as peon in May, 1997 and they had terminated his services w.e.f. 27-2-1999 without complying with the provisions of section 25-F of the I.D. Act 1947 and their said action was unjust and illegal. In the circumstances the reference received from the Ministry of Labour, Government of India vide their No. L-40012/225/2002-IR(DU) dated 21st of March, 2003 in this regard is answered against the workman holding that he has failed to prove any claim and therefore, he is not entitled to any relief. The award is passed accordingly.

Let a copy of this award be sent to the appropriate government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

का.आ. 899.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डायरेक्ट्रेट ऑफ एडल्ट एजुकेशन के प्रबंधन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 03/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[सं. एल-42012/23/2005-आई आर(सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 899.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref.03/2006 of the Cent. Govt. Indus. Tribunal-cum Labour Court No-2, New Delhi as shown in the Annexure, in the industrial dispute between the management of Directorate of Adult Education, and their workmen, received by the Central Government on 02-04-2008.

[No. L-42012/23/2005-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, NEW DELHI

PRESIDING OFFICER: R.N. RAI L.D. No. 03/2006
IN THE MATTER OF:-

Shri Birender Kumar and Others,
C/o The President,
Janvadi General Kamgar Mazdoor Union,
Room No. 95, Barracks No. 1/10,
Jannagar House, Shahjahan Road,
New Delhi - 110011.

VERSUS

The Director,
Directorate of Adult Education,
10-Jannagar House,
New Delhi.

AWARD

The Ministry of Labour by its letter No. L-42012/23/2005-IR(CM-II) Central Government Dt. 3-1-2006 has referred the following point for adjudication.

The point runs as hereunder:

"Whether the action of the management of Directorate of Adult Education, Jam Nagar House, New Delhi in terminating the services of S/Shri Birender Kumar, Munish Sharma and Kuldeep Singh, casual labourers with effect from 17-9-2002 is just, fair and legal? If not to what relief the workmen are entitled and from which date?"

That the full particulars of the workmen who performed their duty as Peon in Group 'D' on daily wages are given as under:

Sl. No.	Name	Father's Name	Date of Birth	Date of employment	Date of Termination	Educational Qualification
1.	Birender	Kisan Ram	4-6-73	24-12-92	17-9-02	8th Pass
2.	Munish	Ved Ram	7-5-71	4-5-94	17-9-02	9th Pass
3.	Kuldeep	Sube Singh	2-10-65	12-4-94	17-9-02	10th Pass

The workmen applicants have filed claim statement. In the claim statement it has been stated that the workmen had raised the dispute for regularization of their services before the Conciliation Officer-cum-Assistant Labour Commissioner (Central) and the first hearing was fixed by this Hon'ble Authority on 4th September, 2003 at 4.00 P.M.

That during the pendency of conciliation before the Conciliation Officer-cum-Assistant Labour Commissioner (Central) the services of the workmen S/Shri Birender Kumar, Munish Sharma and Kuldeep Singh were terminated w.e.f. 17-9-2002 without taking prior permission/approval under Section 33 of ID Act 1947 from the said Authority.

That the said dispute was dealt by this Hon'ble Authority in file No. ALC-HQ(R)/8(148)/2002.

That Shri Roop Chand, Asstt. Labour Commissioner (Central) has submitted his failure of Conciliation (FOC) report to the Secretary, Ministry of Labour, Govt. of India, Shram Shakti Bhawan, Rafi Marg, New Delhi-110001 narrating all the facts and also violation of Section 33 as well as 25F of Industrial Disputes Act 1947. Copy of the FOC report is annexed as Annexure-4.

That now the said dispute for their regularization and equal pay for equal work already referred by the Ministry of Labour, Government of India, Shram Shakti Bhawan, New Delhi vide order dated 13-10-03 and the same is pending before Shri S.S. Bal, Ld. Presiding Officer, Labour Court No. I, R.K. Puram, New Delhi. Copy of the said order is also annexed as Annexure-B.

That apart from taking prior permission approval U/s 33 of ID Act 1947 from Shri Roop Chand Asstt. Labour Commissioner. (Central)-cum-Conciliation Officer, the management has terminated the services of the workmen without serving one month notice or one month pay in lieu of notice, compensation etc. because the workmen have completed more than 240 days in each of the 12 month calendar year.

The workmen connected with this dispute had been performing their duties continuously without any single break during their employment under the management and the said work is still continuing with the management.

That action of the management terminating the services of the workmen connected with the dispute for

their regularization without any prior permission/ approval from Asstt. Labour Commissioner (Central) so the termination orders are honest and the workmen have to be treated as on the service of the management.

That non-Compliance of Section 25 F of ID Act 1947, the termination of services w.e.f. 17-9-2002 is also unjustified, unfair and illegal as the workmen are entitled to be reinstated in service from the date of their termination.

That the workmen remained unemployed and could not get any employment after termination of their services on 17-9-2002 although they have been continuously trying for employment at every possible place so they are entitled to be reinstated in service with full back wages as fixed by the appropriate authority under Minimum Wages Act 1948 from time to time for unskilled labourer by the appropriate authority and continuity of service along with all consequential benefits.

The Management has filed written statement. In the written statement it has been stated that the respondent, Directorate of Adult Education (DAE) is a subordinate office under the erstwhile Department of Elementary Education & Literacy, now Department of School Education & Literacy, Ministry of Human Resources Development, Government of India, New Delhi, functioning as a National Resource Centre in the field of Adult Education. It provides academic and technical resource support to National Literacy Mission. The respondent being a subordinate office had to engage casual workers in the past from time to time on daily wage basis for work of purely casual/ seasonal intermittent nature for which no post can be created. The casual workers so engaged were being paid daily wages for the actual days of working.

That the claimants were engaged as casual labour on daily wage basis and terminated as per details given below:

Sl. No.	Name	Date of initial engagement	Date of Termination
1.	Shri Birender	24-12-92	17-9-02
2.	Shri Munish	4-5-94	17-9-02
3.	Shri Kuldeep	12-3-94	17-9-02

The status and other service benefits for casual workers are regulated in terms of instructions issued by the Department of Personnel & Training from time to time. The Department of Personnel & Training had issued orders for grant of temporary status on a one time basis which were to be enforced w.e.f. 1-9-93. As per these instructions, the case of all the casual workers working in this Directorate including the applicants was considered by the respondents and four of them fulfilling the admissibility criteria were granted temporary status w.e.f. 1-9-1993. However, the applicants could not be granted temporary

status as they did not fulfill the basis criteria laid down by the Department of Personnel & Training.

That under the scheme, the grant of temporary status was to be conferred on all casual labourers in employment on the date of issue of these orders and having rendered a continuous service of at least 1 year, i.e., at least 240 days in a year or 206 days (in case of officers having five days a week).

That the applicant not having completed the requisite one years of continuous employment as on the date of the Issuance of the Scheme, i.e., 1-9-1993, could not be conferred with temporary status. The number of days of continuous employment rendered by each of the applicants as on 1-9-1993, which was the effective date for considering the eligibility for grant of temporary status, is given below:

S.No.	Name	No. of days of continuous service rendered as on 1-9-93
1.	Shri Birender	190
2.	Shri Kuldeep	Nil
3.	Shri Munish	Nil

That the aggrieved applicants filed an OA in the Central Administrative Tribunal, Principal Bench, New Delhi seeking regularization and grant of temporary status in terms of aforesaid scheme in respondent's office.

That the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi "held the view vide their Order dated 17-11-2000, that the scheme was not a one time concession but an ongoing scheme and directed that the cases of the applicants should be considered according to the provisions of the scheme. The Hon'ble Tribunal also directed that the action may be taken within two months from the date of receipt of the order passed." The orders were received by the respondents on 21-2-2000 through their Learned Counsel and hence the directions were to be complied before 20-2-2001.

That the respondent consulted Department of Personnel & Training who have notified the Scheme dated 10-9-1993 for grant of temporary status and observed that the different Benches of the Central Administrative Tribunal, New Delhi had taken conflicting views on the questions whether the scheme was a one time measure or an ongoing scheme. The Department of Personnel & Training pointed out that an Appeal for resolving the conflicting views was already pending before the Supreme Court. The Hon'ble Supreme Court granted stay on 2-3-2000 against a SLP filed in a similar case on the impugned order of the High Court dated 15-12-99 in CWP No. 7499/99.

That keeping in view the conflicting views of the Hon'ble Central Administrative Tribunal, New Delhi on the issues whether the scheme was a one time concession or an ongoing scheme and considering that the decision given by the Hon'ble High Court would have wide

repercussions as it was going to effect large number of casual workers already inducted in service in various Departments, the entire matter was at that time already receiving consideration of the Hon'ble Supreme Court.

That keeping in view the above facts of the case, the Hon'ble High Court was prayed by filing a CWP No. 1140/2001 by the Directorate (Respondent) to grant a stay on the implementation of the impugned order of the Central Administrative Tribunal, Principal Bench, New Delhi dated 17-11-2000, and also a stay against contempt proceedings till the Hon'ble Supreme Court gives a final judgment on the matter.

Since the casual labourers (namely Shri Birender Kumar, Munish Kumar and Kuldeep Singh) were not found admissible by the Respondent (Directorate of Adult Education) as well as by the Hon'ble Supreme Court of India for grant of even temporary status, their claim of regularization in service had no locus. However, in view of the other opinion taken by the Hon'ble Supreme Court of India in their judgment dated 29-4-2002 "that from Clause 4 of the Scheme of the temporary status, it does not appear to be a general guidelines to be applied for the purpose of giving temporary status to all the casual workers as and when they complete one year of continuous service and it is up to the Union Government to formulate any scheme as and when it is found necessary and the casual labourers are to be given temporary status and absorb them in Group D posts" the Directorate of Adult Education of its own approached the Department of Personnel & Training for advice as to whether any other benefit of some or like nature can be given to these workers of if there is any proposal (as referred to in the Hon'ble Supreme Court's decision) under consideration of the Department of Personnel & Training for granting benefits as a welfare measure to the daily wagers engaged at that point of time in the office of the Government of India so that the fate of these daily wage workers could be decided accordingly.

The representative of the Directorate appeared on 4-10-2002 and submitted that this Directorate is not an industry as this does not render any direct services not is engaged in any production or supply or distribution of goods to satisfy human wants or wishes vide letter dated 4-10-2002. It was also brought the notice of ALC (C) that the matter regarding regularization and grant of temporary status raised by the daily wagers has already been decided by the Hon'ble Supreme Court of India. The relevant papers were also handed over to the ALC. The matter could not be reconciled as it was stated that the Directorate is an industry and has violated the provisions of Section 33 of the Industrial Disputes Act, 1947.

No dispute was pending in any court when their services were dispensed with i.e. as on 17-9-2002. Also, it was not brought to the notice of the Directorate by the claimants that any dispute raised by them is pending. The first notice addressed to the Director, Directorate of Adult Education, New Delhi, from the office of the Regional Labour Commissioner (C) was received in the Directorate on

26-9-2002. Only on that very day, the Directorate noticed that any dispute between the Directorate and the casual workers have been raised. Hence, it is clear that there is no violation of Section 33 of the Industrial Disputes Act, 1947.

In this regard, it is submitted that the services of the casual workers working on daily wage basis in the Directorate were dispensed with w.e.f. 17-9-2002 only after the final decision of the Supreme Court of India in the matter raised by them in the Hon'ble Tribunal relating to regularization of their services and grant of temporary status. Their request was not agreed to by the Supreme Court of India on the grounds that the Scheme of 1-9-1993 is not an ongoing Scheme and the temporary status can be conferred on the casual labours under that Scheme only on fulfilling the conditions incorporated in clause 4 of the Scheme only on fulfilling the conditions incorporated in Clause 4 of the Scheme, namely, they should have been casual labourers in employment as on the date of the commencement of the Scheme and they should have rendered continuous service of at least one year, i.e. at least 240 days in a year or 206 days (in case of offices having 5 days a week).

As regard their claim of performing duties continuously without any break, for one month notice or one month's pay before dispensing their services, it is stated that they were not performing their duties continuously as their services were engaged in the Directorate as casual workers for performing duties of casual/occasional and of intermittent nature as and when required, whether on working days or holidays. They were not working against any specific posts. Hence, the condition of serving one month notice or one month's pay before terminating the services is not applicable in their case. The termination orders are correct and valid. The applicants neither working in respondent's office as on date nor to be treated as in the service of the Management. Their claim that the work for which they were engaged is still continuing with the Management is denied as that was of casual/occasional and of intermittent nature. Beside, no daily wager has so far been engaged in place of the applicants.

In view of the submissions in foregoing paragraphs, the provisions of the Section 25F of Industrial Disputes Act, 1947 does not apply to this case. The termination of services with effect from 17-9-2002 is justified, fair and legal as the same was terminated much before the receipt of notice from the conciliation authority (factually received in the Directorate on 26-9-2002 or initiation/start of conciliation proceedings. Hence, the workmen/applicants are not entitled for reinstatement in service.

The applicants were engaged as casual worker on daily wage basis in this Directorate for work of casual/occasional and of intermittent nature, which had already over and hence the services of the applicants were terminated from the Directorate with effect from 17-9-2002. No daily wager or any person has since been engaged/recruited in place of the applicant.

The workmen applicants have rejoinder. In the rejoinder they have reiterated the averments of their claim statement and have denied most of the paras of the written statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

From the perusal of the pleadings of the parties the following issues arise for adjudication:

1. Whether the workmen have completed 240 days work in between 1992 to 2003 during the tenure of their employment?
2. Whether the management is not an Industry?
3. Whether the workmen are entitled to reinstatement/regularization?
4. To what amount of back wages these workmen are entitled?

ISSUE NO. 1

It was submitted from the side of the workman that Sh. Birender Kumar was engaged as casual labour by the management on 24-12-1992 and his services were illegally terminated on 17-09-2002. Sh. Manish was engaged as casual labour on 04-05-1994 and his services were terminated on 17-09-2002. Sh. Kuldeep was also appointed on 12-04-1994 and his services were terminated on 17-09-2002.

The management in the written statement has categorically admitted the initial date of engagement of these workmen and the date of termination.

From the admission of the management it becomes quite obvious that Sh. Birender Kumar has worked continuously from 24-12-1992 to 17-09-2002. Sh. Manish has worked from 04-05-1994 to 17-09-2002 continuously and Sh. Kuldeep has also worked from 12-04-1994 to 17-09-2002 continuously. It is admittedly proved that the workmen have worked for 240 days in every year of their employment almost for 8-10 years.

Sh. Birender Kumar has almost worked for 10 years continuously from 24-12-1992 to 17-09-2002. Sh. Manish Kumar and Sh. Kuldeep have worked for almost 8 years from 1994 to 2002.

Thus, it stands proved that the workmen have worked for more than 240 days work in each year of their employment from 1992 to 2002.

This issue is decided accordingly.

ISSUE NO. 2

It was submitted from the side of the management that the directorate is not an industry as it does not render any direct services and it is not engaged in any production or supply/distribution of goods to satisfy the human wants and wishes.

The management is an undertaking of the Central Government. It is run under the Authority of Central Government. There is employer-employee relationship

between the management and the workmen. It carries on systematic activities. It is settled law that an undertaking may be an industry even if it has no motive of gains and it is not carrying on any trade or business. In view of the criteria laid down in Bangalore Water Supply, Constitution Bench Judgement, the management is an industry.

This issue is decided accordingly.

ISSUE NO. 3

It was submitted from the side of the management that a scheme called casual labourers (grant of temporary status and regularization) scheme of GOI of 1993 was formulated. It stipulates that temporary status would be conferred on all casual labourers who are in employment as on 10-09-1993, who had rendered continuous service of almost 240 days work.

It was further submitted that Sh. Birender Kumar has completed only 190 days prior to 10-09-1993 and Sh. Kuldeep and Manish have not performed any duty, so they were not given temporary status under regularization scheme of GOI 1993.

It was further submitted that the workmen moved the Hon'ble High Court of Delhi for regularization but the writ has been dismissed. The matter is still subjudice before the Hon'ble Apex Court. It is admitted that the services of the workmen were illegally terminated while industrial dispute was pending before the Conciliation Officer.

It appears that when the management got notice of raising of the dispute before the Conciliation Officer the services of the workmen were illegally terminated and thereby the management has infringed Section 33 of the ID Act, 1947.

It was submitted from the side of the workmen that the matter before the Hon'ble Supreme Court is subjudice regarding the fact whether the workmen deserve to be regularized under the scheme of 1993. It is to be decided by the Hon'ble Apex Court whether the scheme is one time scheme or it is on going scheme. The matter regarding reinstatement of these workmen is not subjudice before any Court of Law.

It was further submitted from the side of the workmen that in view of the postulates of Section 25F, the management was duty bound to make payment of retrenchment compensation and one months pay in lieu of notice. These workmen have been illegally removed without payment of retrenchment compensation and one month's pay in lieu of notice. As such their services have been terminated in violation of Section 25 F of the ID Act, 1947. Such termination order is illegal, void and the workmen should be deemed to be still in employment as the management committed illegality by violating Section 25 F of the ID Act, 1947.

It is settled law that if a workman has worked for 240 days in a calendar year or within 12 months prior to the date of termination of his services he deserves reinstatement. In the instant case the workmen have worked

for 8-10 years and they have worked continuously for the entire period, so they are entitled to reinstatement.

It was submitted from the side of the bank that reinstatement is not the only relief in all the cases of illegal termination. Section 11 A of the ID Act, 1947 provides for payment of compensation also.

It was submitted from the side of the workman that compensation is payable in cases where an undertaking has become sick or it has been closed or it is in economic loss. It has not been established that the bank is in economic loss and it is a sick industry.

My attention was drawn by the Ld. Counsel of the workman to 2000 LLR 523 State of UP and Rajender Singh. The Hon'ble Apex Court ordered for reinstatement with full back wages as the services of the daily wage cleaner who worked for 4 years was dispensed with without following the procedure for retrenchment. In the instant case also no retrenchment compensation has been paid. This case law squarely covers the instant case.

It has been held in 1978 Lab IC 1668 that in case service of a workman is terminated illegally the normal rule is to reinstate him with full back wages.

My attention was further drawn to AIR 2002 SC 1313. The Hon'ble Supreme Court has held that daily wage even if serving for a short period should be reinstated.

It was submitted from the side of the workman that in the instant case Sections 25 F, G of the ID Act are attracted. In Section 25 of the ID Act it has been provided that if a workman has performed 240 days work and if the work is of continuous and regular nature he should be given pay in lieu of notice and retrenchment compensation.

It has been held by the Hon'ble Apex Court that there is no cessation of service in case provisions of section 25 F are not complied. In the instant case no compensation has been paid to the workman.

In case a workman has worked for 240 days in a year and the work is of continuous and regular nature he should be paid retrenchment compensation. In case retrenchment compensation is not paid Section 25 F of the ID Act is attracted. There is no cessation of his services. He is deemed continued in service in the eye of law. In case there is breach of Section 25 F the service is continued and reinstatement follows as a natural consequence.

ID Act, 1947 has been enacted to safeguard the interest of the workmen belonging to poor segment of society. It appears that legislature wanted that such workmen should not be harassed unnecessarily so Sections 25 F, U, T and Clause 10 of Vth Schedule have been enacted. The objects and reasons of ID Act, 1947 show that the respondent management should not be permitted to indulge in any unfair labour practice. The workmen should not be engaged for years and then they should be removed all of a sudden. There is provision of retrenchment compensation for his removal. Retrenchment compensation is for compensating him otherwise so that

he can survive long interregnum of unemployment. In the instant case no retrenchment compensation has been paid.

It was submitted from the side of the management that the Hon'ble Apex Court in 2006 (4) Scale has put down a complete ban on regularization and reinstatement. The Hon'ble Apex Court has held that employment can only be made on the basis of procedure established in that behalf envisaged by the Constitution. Equality of opportunity is the hallmark and the Constitution enshrines affirmative action to ensure that unequals are not treated equals. So public employment should be in terms of constitutional scheme.

It was further submitted that the Constitution Bench Judgment has afforded a right according to which the government is not precluded from making temporary appointments or engaging workers on daily wages.

The Hon'ble Apex Court has not declared the provisions of ID Act unconstitutional. The Government has got no license to make always appointment of daily wagers and to continue them for life time. Fixed term tenure appointments and temporary appointments cannot be the rule of public employment. At the time of making temporary appointments Articles 14, 16, 21, 23, 226 & 309 are infringed. There is no constitutional mandate that the Government is at liberty to go on giving fixed term appointments for the entire tenure of service of an employee.

No such Article of the Constitution has been pointed out under which the Government or Public Sector units can continue incessantly to give temporary and fixed term appointments again and again. Since fixed term appointments and temporary appointments are not governed by any constitutional scheme, such discrimination will amount to vicious discretion. The Government or Public Sector unit will go on resorting to the method of pick and choose policy and give temporary and adhoc appointments to their favorites and thus the principles of equality enshrined in the constitution will be given a go bye. Such is not the intent of the Hon'ble Apex Court. However, in this judgment the provisions of the ID Act governing the services of the workman have not been declared unconstitutional. Reinstatement is the remedy provided in the ID Act for breach of several provisions enumerated therein or for breach of service rules provided in various labour welfare legislations.

Section 11 A of the ID Act stipulates that in case the Tribunal is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstance of the case may require. According to this benign provision this Tribunal has the authority to set aside the order of discharge or dismissal and reinstate the workman on the terms and conditions as it thinks fit.

New Delhi, the 2nd April, 2008

S.O. 900.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 129/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 02.04.2008.

[No. L-22012/156/1998-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/129/99

PRESIDING OFFICER: SHRI C. M. SINGH

The General Secretary,

M. P. Koyla Khan Lipik Sangh,

Ward No. 1, Behind Gadi,

PO: Sohagpur, Distt. Shahdol (MP) ...Workman/Union

Versus

The Sub Area Manager,

...Management

Amlai O.C. M of SECL,

PO: Amlai Colliery,

Distt. Shahdol (MP) Shahdol.

AWARD

Passed on this 25th day of March, 2008

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/156/98-IR (CM-II) dated 22-3-1999 has referred the following dispute for adjudication by this tribunal:

"Whether the action of the management of the Sub Area Manager, Amlai Open Cast Mine, Sohagpur Area of the South Eastern Coalfields Ltd. in not giving promotion to Sh. K. K. Tiwari is legal and justified? If not, to what relief the workman is entitled?"

2. The order dated 14-12-05 on the ordersheet of this reference proceedings reveals that the reference proceeded exparte against workman Shri K. K. Tiwari as no body put in appearance on behalf of workman inspite of sufficient service of notice. No statement of claim has been filed on behalf of workman.

3. The case of the management in brief is as follows. That the workman was initially appointed as General Mazdoor. He was working as General Mazdoor, Cat-I at Amlai OCM. The workman at no point of time worked as clerk in colliery store. He was never appointed as clerk. That the qualified person employed as General Mazdoor has been given preference for selection to the post of clerk as and when recruitment takes place. That to enable the existing employees for their selection to the post of clerk, they are granted opportunity to learn the work of clerk with

a view to built up their carrier but that doesnot mean that the employee is employed/deployed as clerk. The workman was never authorised to work as clerk against the sanctioned vacancy and the management never gave any assurance regarding his regularisation as clerk. The workman is equating his case with the other employees who have been regularised in the post. As such, the claim of the workman is baseless, misconceived and deserves to be dismissed.

4. As the case proceeded exparte against the workman, there is no evidence on record on behalf of the workman.

5. The management in order to prove their case filed affidavit of their witness Shri Charan Singh, then working as Sub Area Manager, Amlai OCM in SECL, Sohagpur area.

6. I have heard Shri A. K. Shashi, Advocate, the learned counsel for the management. I have very carefully gone through the evidence on record.

7. The case of the management is fully proved and established from the uncontroverted and unchallenged affidavit of management's witness Shri Charan Singh. Therefore the reference deserves to be answered in favour of the management and against the workman without any orders as to costs.

8. In view of the above, the reference is answered in favour of the management and against the workman Shri K. K. Tiwari without any orders as to costs holding that the action of the management of the Sub Area Manager, Amlai Open Cast Mine, Sohagpur Area of the South Eastern Coalfields Ltd. in not giving promotion to Sh. K. K. Tiwari is legal and justified and consequently the workman is not entitled to any relief.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

कर.आ. 901.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. ई. सी. एल. के प्रबंधक के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 69/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[सं. एल-22012/405/1994-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 901.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 66/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial

Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 02.04.2008.

(No. L-22012/405/1994-IR (C-II))

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR

NO. CGITAL/CR/4695

PRESIDING OFFICER: SHRI C. M. SINGH

The President,

R. K. K. M. S.

Post: Gondarpur (Chirimikri),

Distt. Surguja

Workmen/Union

Versus

The sub Area Manager,

Kurasia Sub Area, S.E.C.L.,

Post Kurasia colliery,

Distt. Surguja

Management

AWARD

Passed on this 25th day of March, 2008

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/405/94-IR (C-II) dated 2-5-95 has referred the following dispute for adjudication by this tribunal:

"Whether the action of the Sub Area Manager, Kurasia Sub Area of SECL in taking work of raising Munshi from S/Shri Kuldip Singh, Sukhdev Singh, Sudeshwar Prasad, Benimohan Ata, N. Dinesh Reddy & Ram Dulara Cat-I mazdoors & not regularising them as Raising Munshi (clerk Gr-III) is legal & justified? If not, to what relief the concerned workmen are entitled to?"

2. Vide order dated 29-11-06 passed on the ordersheet of this reference preceeding, the reference proceeded ex parte against the workmen/Union as in spite of sufficient service of notice on workmen/Union, no body put in appearance on behalf of workmen/Union.

3. The case of the management in brief is as follows. That the claim made by the workmen S/Shri Kuldip Singh, Sukhdev Singh, Sudeshwar Prasad, Benimohan Ata, N. Dinesh Reddy & Ram Dulara is highly belated. That workman Shri Kuldeep Singh was appointed as casual mazdoor w.e.f. 1-4-85. He was regularised vide order dated 5-9-87 to the post of Cat-I w.e.f. 1-9-87. That again vide order dated 5-3-01, he along with the others were promoted as General Mazdoor Cat-II. That again he was promoted as EPGH in excavation GLE w.e.f. 1-5-03 vide order dated 24-4-03. Workman Shri Sukhdev Singh was initially appointed as casual mazdoor w.e.f. 1-11-1983. He tendered his resignation which was accepted by the Management vide office order dated 27-9-97. As he is no more in service, his claim has no substance. That workman Sudeshwar Prasad

was initially appointed as casual mazdoor w.e.f. 1-11-1983. He was placed as underground Munshi Gr. III w.e.f. 3-8-96 and his wages were fixed accordingly. That he was promoted as Mining Sinder vide office order dated 12-6-02 fixed in mining sinder Gr. "C". As the workman is working in the higher grade, the claim for promotion to the post of raising Munshi Gr. III is not maintainable. Workman Shri Beni Mohan Ata was initially appointed as General Mazdoor w.e.f. 1-4-85. He was promoted to the post of Data Entry Operator vide office order dated 30-8-02. That on the basis of recommendation of DPC, he was placed in T & S Gr. "D" vide office order dated 13-12-93. That again on the recommendation of DPC, he was promoted to the post of Punch Verifier Operator in T & S Gr. E vide office order dated 21-12-1991. That consequent upon the recommendation of DPC, the workman was again given promotion to the post of T & S Gr. C vide order dated 17-11-1995. That the workman is working in the higher post than the claim made in this reference. On this ground, the said workman has no case. That workman Shri N. Dinesh Reddy was initially appointed as time rated category-I mazdoor w.e.f. 3-8-83. On the basis of recommendation of DPC, he has already been placed as Underground Munshi Grade-III w.e.f. 2-8-96 vide office order dated 23-6-96. That as the workman has already been given placement of underground Munshi Gr. III, the present reference becomes infructuous. That Shri Ramdulare was initially appointed as casual mazdoor w.e.f. 1-11-1983. That on the basis of recommendation of DPC, he was placed as Magazine/Store issue clerk Gr. III vide office order dated 30-8-96. As the workman has already been placed in Magazine/Store issue clerk Gr. III, the present reference becomes infructuous. That workman Shri Kuldeep Singh has been promoted to the higher post of EPGH in excavation Gr. E. Shri Sukhdev Singh has resigned from the service. Shri Sudeshwar Prasad has been promoted as Mining Sinder. Beni Mohan Ata has been promoted to the post of Data Entry Operator. Shri N. Dinesh Reddy has already been given placement as underground Munshi Gr. III and Shri Ramdulare has already been given placement to the post of Store clerk Gr. III and therefore there is no substance in the claim of the claimants and deserves to be dismissed.

4. As the reference proceeded ex parte against the workmen/Union, there is no evidence on record on behalf of workmen/Union. The management in order to prove their case filed affidavit of their witness Shri Jafar Mohammad, then working as Sr. Personnel Officer in SECL, Chirimikri Area.

5. I have heard Shri A. K. Shashi, Advocate, learned counsel for the management. I have very carefully gone through the evidence on record.

6. The case of the management is fully established and proved from the uncontroverted and unchallenged affidavit of their witness Shri Jafar Mohammad and therefore the reference deserves to be answered in favour of the management and against the workmen/Union without any orders as to costs.

7. In view of the above, the reference is answered in favour of the management and against the workman/Union without any orders as to costs holding that the action of the Sub Area Manager, Kurasia Sub Area of SECL in taking work of Raising Munshi from S/Shri Kuldip Singh, Sukhdev Singh, Sudeshwar Prasad, Benimohan Ata, N. Dinesh Reddy & Ram Dulara Cat-I mazdoors & not regularising them as Raising Munshi (Clerk Gr- III) is legal & justified and consequently the workman/Union are not entitled to any relief.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

आ.आ. 902.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार उच्च, सी. एल. के प्रबंधन के संबंध निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचक (संदर्भ संख्या 256/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[सं. एल-22012/352/1996-आई आर(सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 902.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 256/1997) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Disputes between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 02.04.2008.

[No. L-22012/352/1996-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/256/97

PRESIDING OFFICER: SHRI C. M. SINGH

The General Secretary,
RKKMS (INTUC),
Post Chhindwara,
Distt. Chhindwara (MP)

...Workman/Union

Versus

The General Manager,
WCL, Pench Area,
Post Parasia,
Distt Chhindwara (MP)

...Management

AWARD

Passed on this 25th day of March, 2008

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/352/96-IR(C-II) dated 29-8-97/3-9-97, has referred the following dispute for adjudication by this tribunal:

"Whether the action of the management of WCL, Pench Area in dismissing Sh. Ginda, Timber Mistry, from service is legal and justified? If not, to what relief is the workman entitled and from which date?"

2. Vide order dated 31-5-06 passed on the ordersheet of this reference proceeding, the reference proceeded ex-parte against workman/Union as no body put in appearance on behalf of workman/Union inspite of sufficient service of notice on workman/Union. No statement of claim has been filed on behalf of workman/Union.

3. The case of the management in brief is as follows. That workman was given a chargesheet dated 30-8-95 alleging that he was present only for 81 days in 1994 & 95 days only during 1995. A departmental enquiry was conducted against the workman according to rules properly and legally. The action of the management is fully justified. The management cannot keep such an employee in service who is regularly absenting himself from duty. The workman is, therefore, not entitled to any relief.

4. As the case proceeded ex parte against the workman/Union, no evidence is on record on behalf of workman/Union. In order to prove their case, the management filed affidavit of their witness Shri R.K. Sinha, then working as Sr. Personnel Officer at Shivpuri Sub Area of WCL, Pench Area.

5. I have heard Shri A. K. Shashi, Advocate, the learned counsel for the management. I have very carefully gone through the evidence on record.

6. The case of the management is fully established and proved from the uncontroverted and unchallenged affidavit of Shri R. K. Sinha, management's witness. Therefore the reference deserves to be decided in favour of management and against the workman/Union without any orders as to costs.

7. In view of the above, the reference is answered in favour of the management and against the workman/Union holding that the action of the management of WCL, Pench Area in dismissing Sh. Ginda, Timber Mistry, from service is legal and justified and therefore he is not entitled to any relief.

8. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

क्र.सं. 903.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार उक्त, सी. एल. को प्रबंधन के संवाद नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचट (सर्वे संख्या 40/1995) को प्रकाशित करती है, जो केंद्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[सं. एल-22012/447/1994-आई आर(सी-II)]

अजय कुमार गौर, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 903.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.40/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Disputes between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 2-4-2008.

[No. L-22012/447/1994-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/40/95

Presiding Officer: SHRI C. M. SINGH,

The President,
S. K. M. S. (AITUC),
Post Ekhehra,
Dist. Chhindwara.

... Workman/Union

Versus

The Manager,
Bhamori Colliery,
WCL, Post Bhamori,
Dist. Chhindwara

... Management

AWARD

Passed on this 25th day of March, 2008

1. The Government of India, Ministry of Labour vide its Notification No. L-22012(447)94-IR. (C. II) dated 16-2-95 has referred the following dispute for adjudication by this tribunal:—

"Whether the action of the management of Bhamori Colliery of WCL, Pench Area, PO Bhamori, Dist. Chhindwara (MP) in dismissing Shri Lekhraj Tub Loader, T. No. 1098 of Bhamori colliery of WCL, Pench Area from services w.e.f. 15-9-92 is justified? If not, to what relief the worker is entitled to?"

2. The case of workman Shri Lekhraj in brief is as follows: That he was working as Tub-Loader, Bhamori colliery. In the mine of Bhamori colliery and the campus thereof, there was no proper provision for the air. Workman Lekhraj fell

ill for doing his duty with more labour than he could do at his age. There was no provision for residence in the colliery. When the workers fell ill, they used to leave the colliery and go to their villages. They used to inform the management regarding leaving for their residential village. An agreement had taken place between workers and the management to assign another work to the weak and ailing tub loaders. The Union requested the management that workman Shri Lekhraj due to being ill and weak, be assigned work at time rate. But he was not given the work at time rate and instead he was dismissed from services on 14-9-92. It is requested that the workman be reinstated in service with all back wages and benefits.

3. The case of the management in brief is as follows: That he was working as Tub-Loader at Bhamori colliery. He was issued a chargesheet dt. 9-2-92 by the Manager of Bhamori Colliery for the alleged commission of misconduct under clause 18(1) of the standing order applicable to Bhamori colliery for habitual late attendance and habitual absence without leave or without sufficient cause and also for habitual indiscipline. The reply to the chargesheet submitted by the workman was not found satisfactory and therefore a departmental enquiry was conducted against him according to rules. The enquiry was conducted properly and legally against him. The enquiry officer submitted his findings holding that the charges levelled against the workman stand proved beyond doubt. Having satisfied with the findings of the Enquiry Officer, the competent authority passed an order dismissing him from services w.e.f. 14-9-92. It is emphasised in their pleadings by the management that the action of management in dismissing the services of the workman is proper, legal and justified.

4. The ordersheet dated 21-3-05 reveals that the reference proceeded ex parte against the workman as despite of sufficient service of notice on him, no body appeared on his behalf.

5. Since the case proceeded ex parte against the workman, there is no evidence on record on behalf of the workman. The management in order to prove their case filed affidavit of Shri S.D. Yadav, then working as Manager in Bhamori colliery of WCL, Pench Area.

6. I have heard Shri A.K. Shashi, Advocate learned counsel for the management. I have very carefully gone through the evidence on record.

7. The case of the management is fully proved from the uncontroverted and prechallenged affidavit of their witness Shri S. D. Yadav. Therefore the reference deserved to be answered in favour of the management and against the workman without any orders as to costs.

8. In view of the above, the reference is answered in favour of the management and against the workman Shri Lekhraj without any orders as to costs holding that the action of the management of Bhamori Colliery of WCL, Pench Area, PO Bhamori, Dist. Chhindwara (MP) in dismissing Shri Lekhraj Tub Loader, T.No. 1098 of Bhamori colliery of WCL, Pench Area from services w.e.f. 15-9-92 is justified and consequently the workman is not entitled to any relief.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C.M. SINGH, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

का.आ. 904.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार नेशनल सीड्स कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, गुवाहाटी के पंचाट (संदर्भ संख्या 9/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[सं. एल-42012/65/2004-आई आर(सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 904.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 9/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati as shown in the Annexure in the Industrial Dispute between the management of National Seed Corporation Limited and their workmen, received by the Central Government on 2-4-2008.

[No. L-42012/65/2004-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI ASSAM.

PRESENT: Shri H.A. Hazarika, Presiding Officer, CGIT-Cum Labour Court, Guwahati.

In the matter of an Industrial Dispute between:

The management National Seed Corporation Ltd., Guwahati.

-Vrs-

Their Workman Sri Gopal Baruah and 3 others.
Ref. Case No. 09 of 2005.

APPEARANCES

For the management: Sri B.K. Das, Advocate.

For the Workman : Sri B. C. Pathak, Advocate &
Sri H. K. Gogoi, Advocate.

Date of Award: 26-3-08.

AWARD

1. The Government of India, Ministry of Labour, New Delhi vide its Notification No. L-42012/65/2004-IR(CM-II) dated 17-10-2005 referred this Industrial Dispute arose between the Management of National Seed Corporation Ltd., Guwahati and their workman in exercise of power conferred by Clause (d) of

sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) for adjudication on the basis of the following Schedule:—

SCHEDULE

"Whether the action of the management of Regional Office, National Seed Corporation Limited, Guwahati in denying to confer/grant temporary status under Government of India, Temporary status Scheme, 1993 in respect of S/Shri Gopal Baruah, Parasram Haloi, Arabinda Kalita and Mahesh Nath from the date of their joining is legal and justified? If not, to what relief Shri Gopal Baruah and there others are entitled?"

2. On being appearances of both the parties, the matter is proceeded for adjudication and to pass Award here as per procedure.

3. The case of the Workman (1) Sri Gopal Baruah, (2) Sri Parasram Haloi, (3) Sri Arabinda Kalita in brief that they are employees under the National Seed Corporation Ltd. That Sri Mahesh Nath who was also a workman along with them has already left and abandoned his service and not in the fray for his claim. That the name of the Workman No. 2 was sponsored by the Employment Exchange vide letter No. ORd-177/170/84/1666-1709 dated 18-9-84 as per requisition of the management and he was duly selected for appointment as Peon in Group-D with effect from 30-10-1984. But violating the Recruitment Rules the management treated him a Workman on daily wage basis. That the Workman No. 3 was also selected and appointed as Peon against the clear vacancy in Group D post with effect from 2-6-1986 vide letter No. I(S)/Adm-DSC/GHT/85-86/106 dated 11-6-86. That the Workman No. 1, who is an B.A. passed and having Diploma of Stenography and typing was also duly appointed against the existing vacancy as LDC with effect from 7-4-1986 at Guwahati but he was also placed by the Management as Workman of daily wage basis violating the complete Recruitment Rules. Accordingly the Workman are working 19/20 years of continuous service but still they are not absorbed on regular posts. Even they are deprived from getting benefit of Scheme implemented by the Government of India. That the formulated Scheme is known as Casual Labourers (Grant of Temporary Status & Regularization) Scheme of the Government of India, 1993. That the said Scheme is came into force with effect from 1-9-1993. Under that Scheme, if a Casual Worker having been put in continuous service for a period at least 240 days (206 days in the case of offices observing 5 days week) shall be entitled for conferment of temporary status if such worker has been in engagement on the date of issue of the said scheme. As per the scheme the Casual Labourers with temporary status will also be entitled for regularization in Group D post. The workmen are entitled to the benefits of the said scheme as they had been working since 1984-86 continuously and on the dates when the scheme came into force and the notification was issued. The Workmen 1, 2 and 3 are still working. The management, though they requested to regularise to them did not regularize them and they were allowed to work on daily wage basis. They raised the matter before the Assistant Labour Commissioner, Guwahati and who has directed the management to settle the matter but management did not

settle the matter. Hence, this Reference case. They prayed to regularize them and to give all the consequent benefits of their posts.

4. The case of the Respondent/ Management in brief that the workmen are Casual Workers and worked temporarily as the department need their services. They were allowed to continue on the mercy of Regional Manager of Guwahati Branch. That all the three workmen were irregular in duties and were cautioned time to time with verbal warning. That the National Seed Corporation though having independent managing-administrative body yet they are managed by the Ministry of Agriculture, Government of India as such, cannot take independent decision in the matter of appointment. For regular appointment sanction and approval of Ministry of Agriculture is required. That the National Seed Corporation Ltd. Suffering a huge loss in last few years as a result of that Government of India appointed Tata Consultancy Services for restructuring the Corporation. Tata Consultancy Services has taken action plan in respect of all the divisions of Corporation and requirement. The Tata Consultancy Services recommended 504 daily wage workers are surplus in the department and their services should be dispensed with. The Tata Consultancy Services recommended reduction of 50% of workers under the Voluntary Retirement Scheme. A Voluntary Separate Scheme under which Casual Workers are made discharged with handful of benefits like ex-gratia, gratuity besides EPF and a pensionary benefits as admissible under the law. As a result of which the Corporation is bound to reduce manpower because of loss it has suffered in recent past as per action plan given by the Tata Consultancy Services. The Corporation forwarded the name of the workers to higher authority but because of the restriction made by Government of India, the Corporation is helpless in the matter of regularization of the workmen. The Government repeatedly insisting of reduction of the manpower. Time to time though few vacancies were created that were specially for competent person for a specific job. There are 504 workers in N.S.C.L. all over India Branches. They all are in surplus list. The N.S.C.L. is taking utmost care and being very much sincere in paying the due payment to those casual workers. The N.S.C.L. has not rendered them helpless. Considering the present condition of the Corporation the Workmen ought to have been happily accepted the V. S. S. scheme and plan their future. The Corporation has not done any injustice to them. Having receipt the notice from Assistant Labour Commissioner, the Respondent took the matter to higher authority concerned for confirming temporary status to the workmen under the Scheme of 1993 but due to restructuring scheme of Tata Consultancy Services they could not do it. That out of 504 Casual Workers more than 200 workers opted for V. S. S. and gone accordingly. Therefore the management prayed that this proceeding may be ended by ordering the petitioners to accept V. S. S. with offered benefits for a suitable end of the case.

5. The Management examined Sri Gulab Chand Pathak, Regional Manager, National Seed Corporation Ltd., Guwahati and Sri Gangadhar Baishya, Administrative

Coordinator of N. S. C. L., Guwahati Branch as their witness. Both of them are cross-examined by learned Advocate Mr. B. C. Pathak for the workmen. The workmen, Sri Gopal Baruah, Sri Parsuram Haloi, and Sri Arabinda Kalita examined themselves in their side. They are also cross-examined by learned Advocate Sri B. K. Das for the Management. Heard the argument submitted in details by learned Advocate Mr. B. C. Pathak for the Workmen and Sri B. K. Das for the Management. Perused the documents submitted by both the parties.

6. The Management witness Gulab Chand Pathak deposed that he knows all the three workmen working under the National Seed Corporation Ltd., Guwahati Branch as Casual Workers. They are Casual Employees and not regular employees as per meaning of the employees. For the official control over their department is always done as per Central Government guidance. No terms and conditions were made with the three workmen to make them regularized. Due to losses incurred by the N. S. C. L. there is no new recruitment in last many years in their department and the Central Government is insisting to reduce the manpower. The Central Government handed over the matter for review with Tata Consultancy Services and Tata Consultancy Service recommended for reducing of manpower. Even for permanent employees a special scheme introduced namely V. R. S. by which a regular employee can go out with of handful benefits. As per the advice of Tata Consultancy Service one casual worker under Guwahati Branch opted for V. S. S. and gone out with handful amount. The contesting three workers were told to adopt V. S. S. and benefit of V. S. S. such as, Pensionary benefit, EPF, Ex-gratia, Gratuity were explained to them but they were not opted to go under V. S. S. In cross-examination he said he does not remember at the time of giving evidence about the exact date of appointment of Gopal Baruah as L. D. C., Parsuram Haloi as worker and Arabinda Kalita as Peon. He also deposed that to his knowledge they worked for about 20/22 years on daily wage basis. They worked continuously. He does not know how many workers are surplus. They are not regularized as the fresh recruitment is banned by the Government of India. The Management witness Sri G. D. Baishya similarly told that all the three workers are well known to him, they are casual workers. He also states that they are very irregular and not at all punctual on duties. That their services retain only on humanitarian consideration. For lack of their devotional attitude they were warned. In cross examination he stated that instructions were given from the Head Office for reduction of manpower for both permanent and casual workers. Since 1984 there is no regular recruitment in the Guwahati Regional of NSCL. Effort has been made from this end to regularize even now they are still working. As there is no post they could not be regularized. If they will get proper instruction from the competent authority they will regularize them.

The evidence of workman Gopal Baruah, workman Parsuram Haloi, and workman Arabinda Kalita. If all together the gist will be that they are working for 19/20 years on casual basis and their services are not regularized.

7. On very careful scrutiny of the evidence on record I find the Management under the advice of Tata

Consultancy Service want to reduce the manpower from the strength of 503 to its half. They introduced the scheme V. R. S., V. S. S. for the purpose of reduction of manpower. Of course they were offered with benefit of EPF, Ex gratia, Pensionary benefit and gratuity. What I find these schemes are voluntary schemes. If the employee like they may go under the Scheme or if not they may not opt for the same. Here the three employees namely Gopal Baruah, Parsuram Haloi and Arabinda Kalita claimed that they are working for 19/20 years, they are poor men. They should be given Temporary Status for their livelihood. What I find from the evidence and document in the record, admittedly, these three workers namely Gopal Baruah, Parsuram Haloi, and Arabinda Kalita are working not less than 19/20 years. I also find under the (Grant of Temporary Status and Regularization) Scheme they are entitled to have grant of Temporary Status. The Definition of Temporary Status is given in the (Grant of Temporary Status and Regularization) Scheme as follows :

"4. Temporary Status:—(i) Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this O.M. and who have rendered a continuous service of at least one year, which means that they must have been engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week)".

8. On perusal of cross examination part of MW.1, Sri G. C. Pathak, I find admittedly the workmen are working for 20/22 years. It is also admitted that they are working continuously. When the workmen are working continuously for 20/22 years definitely they are covered under the (Grant of Temporary Status and Regularization) Scheme.

9. Under the circumstances, in my opinion, the workmen are working not less than 20 years and that too continuously as evident from the evidence of the Management witness themselves. It is pertinent to note here that in the last part of the Written Argument submitted by the Management it appears that the Management want to retain them. If the Management retain them and enjoy their service why so senior workmen will not be given Temporary Status. Admittedly they are senior workers. They should have been given Temporary Status. Hence, in my opinion, the Management is not justified for not conferring the Temporary Status to the concerned three workmen.

10. Under the above facts and circumstances, in my opinion, for ends of Natural Justice, this is a fit case where all the three workmen are to get Temporary Status. The Department should confer Temporary Status to those three workmen. Accordingly this issue is decided in favour of the three workmen and against the Management.

11. Award is passed accordingly and send it to Government immediately as per procedure.

H. A. HAZARIKA, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

का.आ. 905.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि करण, नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1195/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02-04-2008 को प्राप्त हुआ था।

[सं. एल-22012/383/2004-आई अवर(सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 905.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1195/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 02-04-2008.

[No. L-22012/383/2004-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT II, SECTOR 18-A, CHANDIGARH

PRESIDING OFFICER: SHRI KULDIP SINGH

CASE I.D.: NO. 1195/2005

Registered on: 3-10-2005

Date of Decision: 14-3-2008

Sukhdev Singh S/o Shri Gurdas Singh,

C/o Trade Union Council, Patiala.

PETITIONER

Versus

The Senior Regional Manager (SRM),
FCI, Sector 31, Near Tribune Chowk,
Chandigarh.

RESPONDENT

APPEARANCE

For the Workman

Mr. Sarabjit, AR

For the Management

Mr. N.K. Zakhmi, Advocate.

AWARD

The workman continues to be absent, Management appears through counsel.

The perusal of the record of the file shows that the workman has all along played hide and seek with the proceedings in this case. Despite reported notices the workman once appeared in person on 23rd of August, 2006, two-three times through his representative who failed to file his authority letter to appear on behalf of the workman. The counsel for the Management has also failed to file his authority letter to represent the Management. The workman has not filed his claim petition so far. He has not appeared despite notice under registered cover postal receipt No. 8172 dated 5th of Dec. 2007. This shows that he has no interest in prosecuting this case.

The Government of India, Ministry of Labour vide their order No. L-22012/383/2004-IR (CM-II) dated 18th of August, 2005 desired of this Tribunal to adjudicate upon "Whether the action of the management of Food Corporation of India in terminating the services of Sh. Sukhdev Singh S/o Sh. Gurdas, Chowkider w.o.f. 1-6-1995 is legal and justified? If not to what relief the concerned workman is entitled to and from which date?" As stated earlier the workman has not come forward to put up his case. There is therefore, nothing on record to show that the workman was engaged by the Management and it is they who had terminated his services on 1st of June, 1995. Therefore, the workman is not entitled to any relief. The reference is answered against him holding that he is entitled to no relief.

Let a copy of this award be sent to the appropriate government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

क्र.अ. 906.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध में निवेदन और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक विवाद अधिनियम, 1947, में 2, नई दिल्ली के चंष्ट (संदर्भ संख्या 70/1995) को प्रस्तुत करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[फा. सं. एल-22012/567/एफ/1994-आई अर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 906.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 70/1995) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on 2-4-2008.

[F.No. L-22012/567/F/1994-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT-II, NEW DELHI

PRESIDING OFFICER: R.N. RAI I.D. NO. 70/1995
IN THE MATTER OF:

Smt. Rita Madan & Ors.,
C/o The Additional General Secretary, FCI Employees'
Congress, E-12/D(MIG),
Mayapuri, New Delhi 110064.

—Claimant

VERSUS

The Zonal Manager (N),
Food Corporation of India,
4th Floor Ansal Bhawan, K. G. Marg,
New Delhi.

—Respondents

AWARD

The Ministry of Labour by its letter No. L- 22012/567/F/94/RC-II Central Government Dt-25-8-1995 has referred the following point for adjudication:

The point runs as hereunder:

"Whether the action of the management of FCI in denying the seniority of Mrs. Rita Madan, Urmila Mahajan, Geeta Sharma, Neelima Nigam and S/Sri Sahib Singh Saharwar, Santosh Sharma, Surinder Singh, Prem Sunja and Santosh Sharma above the seniority of fresh recruits recruited during 01-11-1973 and March/April, 1976, is fair and justified? If not, what relief the concerned workmen are entitled to?"

The workmen applicants have filed claim statement. In the claim statement it has been stated that above referred Asst. Grade-III were appointed by the Regional Manager, FCI, RO, New Delhi on adhoc/temporary basis despite the fact that regular vacancies already existed during July 1973 at that particular point of time.

That after some time, there was overall reduction in establishment in FCI in North Zone (in Delhi at RO's stage) and services of these officials were terminated on 31-10-73.

That on arrival of fresh vacancies, instructions were issued by the Hqs. To accommodate the retrenched employees by way of reappointment before making any fresh appointment as is the provision in the Industrial Disputes Act, 1947 as amended from time to time.

That unfortunately enough it so happened that before accommodating some of the retrenched employees who were the rightful claimant, fresh recruitment was resorted to a clear violation of the provisions of the ID Act, 1947 which provided preference to retrenched employees over the fresh recruits.

That arising as a consequence of this statement the matter had to be represented by the individual union where these retrenched employees also were re-appointed including those who had grown over age such as Sh. Surinder Singh and Santosh Sharma.

That consequent to above anomaly the particulars of direct recruits vis-a-vis retrenched employees for the purpose of seniority which is maintained in the FCI, Zonal Office (N) were also forwarded accordingly making the direct recruits senior to the retrenched employees re-appointed making the matter from bad to worse thereby. The seniority list in Zonal Office (N) was finalized on the same basis.

That, retrenched employees have been hard hit since they were re-appointed later than the fresh recruits and also were made junior to those fresh recruits in their violation of all norms of justice and fair play, which is gross injustice unabatedly continues without any amends in the matter despite all our hectic efforts of the individual union through various representation on the subject despite the fact that in one of the latest judgment on the subject in question stating in no ambiguous terms in as much as that entire period of service including that of daily wage, adhoc and temporary has to be computed towards seniority and other benefits, hence this claim before your Honours.

honour being carte blanche in the seat of justice with an humble prayer in all earnestness to restore the seniority in favour of the retrenched employees from the date of their original appointment including payment of back wages along with the interest plus arrears for the period by which they were appointed later than the fresh recruits as if was none of their fault and responsibility for the lapse rests with the management alone.

The management has filed written statement. In the written statement it has been stated that the applicants have no locus standi to make any such claim, hence the same is liable to be dismissed in limine.

That the applicants have no cause of action against the respondent and the claim application is liable to be dismissed.

That the application is vague, malafide without any legal right and the same is liable to be dismissed.

That it is submitted that the applicants were appointed as AG(III) (M) in July, 1973 and they were retrenched on 31-10-1973. After their retrenchment the applicants neither made any claim against the retrenchment or issued any notice to the respondent for the same nor they entitled for any claim. However, as at the time of recruitment of AG (III) (M) in 1976 were re-employed on preference basis as per the Zonal Office (N) D.O. communication No.A-1 (2175-76/N2/dated 09-02-1976 attached herewith as Annexure-I and Hqrs. Circular No.N-11/74 -EP dated 06-03-1976 attached herewith as Annexure-II the applicants were re-employed on preference basis and they were given seniority over the fresh recruits taken in 1976.

That it is also submitted that it is well settled law that the retrenched employees have only a right of preference in any future employment by the same employer and no other right. And their re-employment shall be considered as fresh appointment only and the claim of the applicants is malafide and without any cause of action.

That it is submitted that the respondent instructed for re-employment according to the procedure laid down in Annexure-I & II attached and the applicants were given preference in the appointment made in the year 1976 as per provisions of the ID Act, 1947.

That it is also denied that the retrenched employees were not given preference over the fresh recruits of 1976 as AG(III)(M). It is submitted that the applicants were given preference in re-employment in 1976 as per provisions of ID Act, 1947 as amended up to date as is also clearly evident from the circulars issued by the respondent which are annexed herewith as Annexure I & II. It is submitted that these retrenched AG(III)(M) were re-employed during March, 1976 and fresh Panel in respect was drawn in Delhi on 31-03-1976.

That it is denied that the retrenched employees were re-appointed on the representation of the union as alleged. It is submitted that the management of the respondent itself took the initiatives and immediately after the relaxation of ban on further employment, issued circulars dated

09-02-1976 and 06-03-1976 for re-employment of these retrenched employees/applicants.

That it is pertinent to mention that the matter as to seniority of the fresh recruit vis-a-vis retrenched employees is pending and subjudice in K & K High Court wherein seniority of AG (III) (M) has been challenged in Writ Petition No. 967/86 and 416/87 titled Sh. Kishan Lal & Ors. Vs. FCI and Ors. And the Hon'ble High Court has granted stay order on 20th October, 1986.

The workmen applicants have filed rejoinder. In the rejoinder they have reiterated the averments of their claim statement and have denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

It was submitted from the side of the workmen that they were appointed by Regional Manager, FCI R.O. New Delhi on ad hoc/temporary basis despite the fact that regular vacancy already existed during 1973 at that point of time. That after sometimes overall reduction in establishment in FCI in North Zone (in Delhi) at R.O. alone, services of these officials were terminated on 31-10-1973.

It was further submitted that before accommodating some of the retrenched employees fresh recruitment was resorted to, in clear violation of the provisions of the ID Act, 1947.

It was further submitted that the seniority of these retrenched employees should be re-stored from their original appointment including payment of back wages along with interest plus arrears from the date of their original appointment i.e. July, 1973.

It was submitted from the side of the management that these workmen were retrenched on 31-10-1973 due to shrinkage in the work. They were re-employed as AG (III-M) in 1976 on preference basis as per the Zonal Office (N) D.O. and they were given seniority over the fresh recruits taken in 1976.

The retrenched employees have only a right of preference in any future employment by the same employer and no other right. These workmen have already been given preference over the fresh recruits in 1976 as AG (III-M).

It becomes quite obvious from perusal of the evidence of the management that during the period from 31-10-1973 to 06-03-1976 there was no fresh employment for the post of AG (III-M) in Delhi Region. In Delhi Region no appointment whether ad hoc or regular has been made of AG (III-M). The seniority is maintained by the Zonal Office on the basis of regionwise appointments of the employees on the basis of the seniority and the Zonal Office has to maintain the seniority of all the employees without any interference of the concerned region.

I have perused the seniority list prepared by the Zonal Office, there is no appointee in the post of AG (III-M) in Delhi Region.

It also becomes quite vivid from the perusal of the seniority list that it was prepared in 1979 and 1981. In Delhi Region there is no appointment of AG(MI-45) as there was shrinkage of work and there was no recruitment. However, there were appointments in the other region. Zonal Office seniority list is prepared on the basis of seniority of all the regions. It has been specifically mentioned in the seniority list of 31-12-1979 that the employees may point out errors and omissions in the seniority list and service particulars within 30 days from the date of its preparation. These workmen did not file any objection to the seniority list prepared on 31-12-1979. They have not filed any objection to the seniority list of 1981. They have filed this case in the year 1995 after a lapse of 16-17 years.

It is settled law that stale claim should not be entertained. They should have raised objections within 30 days when seniority list was prepared in 1979.

It was submitted from the side of the management that there is no explanation of delay. Not to speak of plausible or satisfactory explanation. There is no explanation at all what prevented the workmen to approach this forum after a long period of 16 - 17 years. It is settled law that stale claim made after an inordinate and unreasonable period should not be entertained.

My attention was drawn to 2005 (5) SCC page 91 paras 12 and 13. The Hon 'ble Apex Court has held that long delay impedes the maintenance of the records. Related claim should not be considered.

It has been held in (2001) 6 SCC 222 as under:

"Law does not prescribe any time limit for the appropriate government to exercise its powers under section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service."

In the instant case reference has been made after a delay of long 16 - 17 years. Limitation Act is not applicable in ID cases but state cases should not be considered. Delay in the instant case is inordinate and relief can be rejected on the ground of delay alone.

It also transpires from perusal of the records that there was absolute ban on recruitment from October, 1973 to February, 1976 in Delhi Region only. There was no appointment in Delhi Region during the aforesaid period. However, there were appointments in the other regions and those appointees have been working regularly since 1973 onwards. These workmen were engaged on ad hoc basis in July, 1973. They worked hardly for 3 - 4 months and there was shrinkage of work, so their services were retrenched. However, when there was relaxation in appointment, these workmen were given preference and they were recruited.

The AG (III - M) in the other regions have been working continuously and regularly from 1973 whereas these workmen worked for only 3-4 months in the year 1973 and they have been again re-employed in the year 1976. In case their seniority to July, 1973 is re-stored they will be put over the employees regularly working in the other regions. These workmen worked for 3-4 months and due to shrinkage of work their services were retrenched. They were taken again in 1976 and they have been put over the fresh recruits of 1976 in Delhi Region. There is no justification in placing these workmen over regularly working employees of the other regions. Re-employment of these workmen was legal so no right has accrued to them. They have been given re-appointment as per the charter of the FCI. The rights of the workmen who joined the services of the FCI in the other regions of the Zone will be adversely affected if the workmen employed over them. So far as the back wages are concerned, the workmen worked for only 3-4 months. They were validly retrenched, in view of the provisions of the ID Act, 1947 they are entitled to re-employment and they have been given re-employment. No workman of AG (III-M) of Delhi Region has been placed over them. The AG (III - M) of the other regions serving the management regularly since 1973 cannot be placed below these workmen who were re-appointed in view of the provisions of ID Act, 1947. They are not entitled to get even back wages.

The reference is replied thus: -

The action of the management of PCI is denying the seniority to Mrs. Rita Madan, Urmilla Mahajan, Geeta Sharma, Neelima Nigam & S/Sri Sahib Singh Saharwar, Santosh Sharma, Surinder Singh, Prem Sangeet and Santosh Sharma above the seniority of fresh recruits, recruited during 01-11-1973 and March/April, 1976 is fair and justified. The workmen applicants are not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 12-03-2008

R. N. RAI, Presiding Officer

मार्च दिवसी: 2 अप्रैल, 2020

का.अ. 907.— औद्योगिक विभाग, अहमदाबाद, 1987 (1987 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार, केन्द्रीय राज्य विधान प्रणालीय संरक्षण के प्रयोजन के संरक्षण निवेदन को और अपने कार्यकारों के बीच, अनुसूची में निर्दिष्ट औद्योगिक विभाग में केन्द्रीय सरकार औद्योगिक अधिनियम, नं. 2, की धारा 17 के तहत (अधिन संख्या 108/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02-04-2008 को प्राप्त हुआ था।

[फा सं एल-22012/5/2003-आर्वा (वै.सं-11)]

अथवा कृष्ण गौरी, सोम, शनिवारी

New Delhi, the 2nd April, 2008.

S.O. 987.— In pursuance of Section 17, of the Industrial Disputes Act, 1947 (34 of 1947), the Central Government hereby publishes the Award (No. 10009) of the Cent. Govt. Indus. Tribunal—cum-Labour Court No.2

New Delhi as shown in the Annexure, in the industrial dispute between the management of FCI Training Institute, and their workmen, received by the Central Government on 2-4-2008.

[F.No. L-22012/5/2003-IR.(CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT - II, NEW DELHI

PRESIDING OFFICER: R.N.RAI. I.D.No. 108/2005

IN THE MATTER OF:

Shri Rakesh Kumar,
S/o Shri Nikhild Naryan Singh,
191, Janta Jiwan Camp,
C-43, Okhla Phase - III,
New Delhi - 110020.

VERSUS

Food Corporation of India,
FCI Training Institute,
Plot No. 87, Sector - 18,
Gurgaon - 122001 (Haryana)

AWARD

The Ministry of Labour by its letter No. L22012/5/2003 IR(CM-II) Central Government dt. 22-08-2005 has referred the following point for adjudication.

The point runs as hereunder:

"Whether the action of the management of Food Corporation of India, Gurgaon in terminating the services of Shri Rakesh Kumar S/o Shri Nikhild Naryan Singh, Chowkidar w.e.f. 6-4-1998 is legal and justified? If not, to what relief the workman is entitled?"

The workman applicant has filed claim statement. In the claim statement it has been stated that this petitioner's services continued as such till 31-3-1996 and thereafter was managed through a contractor security agency to tide over the statute and regulations and to deprive this petitioner of the legitimate of regularization which has become due to this petitioner after he has worked for more than the stipulated period of service but since this petitioner used to work over there i.e. site office during its construction stage and thereafter used to perform security duties for the end - use and benefit of the respondent i.e. Food Corporation of India but this petitioner's services was not regularized and after having worked for more than 240 days his service was orally terminated when he was working through a stage managed security agency and he was verbally told one day that the agreement has been terminated and his services was no more required and accordingly his services was orally terminated without any written termination order having been issued and communicated to him.

That he had worked at this site office of the Food Corporation of India, i.e. Central Training Institute, Gurgaon under construction during its construction stage but when

this petitioner's service period has reached 93 days i.e. more than 90 days, then one day Shri Y.D. Munjal deleted his attendance for three consecutive days in the attendance register with his own handwriting because had his service for this period of three days been counted, then this petitioner would have got an automatic regularization and confirmation in the Food Corporation of India during those days itself because normal period counted for regularization was 90 days during those days itself which was later on increased to 240 days. A copy of the said make believe Attendance Register maintained in the handwriting of Shri Y.D. Munjal stands already submitted by this petitioner to the Government of India for making a reference of this Industrial Dispute to this Industrial Tribunal.

That since this petitioner's service were terminated in an illegal and arbitrary manner on 6-4-1998 after having worked for more than 240 days in a year in violation of the statutory provisions/without following the due process as established by law (and earlier also after having worked for more than 90 days during a year), so this petitioner was left with no other alternative but to knock at the door of justice.

That the above said action of the management of the Food Corporation of India by firstly getting this petitioner appointed through its incharge at the work site (CTI under construction) of the respondent and later on getting this petitioner's services managed through a security agency and thereafter getting the same dispensed with through itself appointed security agency i.e. contractor when the job of guarding the constructed building is continuing even at present by arranging other persons in an illegal and arbitrary manner and this termination was got done in spite of the availability of job and after the termination of this petitioner, the management has also engaged other persons for the same very work i.e. guarding this building during its continuing even now by engaging other persons as was being performed earlier by this petitioner.

The management has filed written statement. In the written statement it has been stated at the very outset it is submitted that there is absolutely no merit or substance or truth whatsoever in the purported claim filed by the petitioner. It is submitted that the allegations and averments as made by the petitioner vide the present claim, are false and frivolous and have been fabricated with obvious motivated reasons. In view of the above; and mala fide intention the present claim is liable to be dismissed on this ground itself. It is further submitted that the facts stated in the above mentioned claim before this Honourable Tribunal the petitioner be put on to strict proof of the same.

That the services of the petitioner was hired by the respondent through the Agency on the contract basis as per provisions of the Contract Labour (Regulation and Abolition) Act, 1970. The few documents related to the services hired by the respondent are being annexed herewith for the kind perusal of this Honourable Court and the same may be read as part of this written statement. It is pertinent to mention here that the petitioner filed frivolous petition No. before the Hon'ble High Court of Delhi pleaded to dismiss the same as withdrawn by the petitioner.

The services of the petitioner was hired by the respondent through the Agency on the contract basis as per provisions of the Contract Labour (Regulation & Abolition) Act, 1970.

It is submitted that the wages for the period which petitioner worked for FCI was properly and duly paid as per provisions of the Contract Labour (Regulation & Abolition) Act, 1970.

It is reiterated that the services of the petitioner was hired by the respondent on through the Agency on the contract basis as per provisions of the Contract Labour (Regulation & Abolition) Act, 1970.

It is submitted that the respondent hired the services of the petitioner in a lawful manner, and also procured its work and every legal obligations towards the petitioner, it is further submitted that respondent was never defaulter of any legal act. The petitioner's claim is not only illegal unjust, improper but also against the law and the judgments has also been given by the Hon'ble Supreme Court of India time to time for the same.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the para of the written statement. The management has also denied most of the para of the claim statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

It was submitted from the side of the workman that he was initially engaged by Sh. Y.D. Murjal, Asst. Manager, Food Corporation of India, Central Training Institute, Block No. 87, Sector-17, Gurgaon as Chowkidar cum Peon to Guard the premises under construction of respondent for the use and benefit of Food Corporation of India. The petitioner was entrusted to guard the site office under construction. Thereafter the petitioner's services were managed through contractor. He has completed 240 days in every year of his employment. His services were terminated illegally and arbitrarily on 6-4-1998 after having worked for more than 240 days in a year in violation of statutory provisions without following the due process as established by law.

It was submitted from the side of the management that the Training Institute was under construction, watch and ward staff was deployed. Tender was invited from the security agencies for supplying Security Guards for watching the premises. M/s. V. S. Security, Gurgaon, M/s. Avashti Security, management Park Road & M/s. Great Ex. Servicemen Pvt. Limited, New Delhi were assigned job. The workman was deputed by these security agencies. The workman started under M/s. V.S. Security Gurgaon in January, 1995 and February, 1995. He worked under M/s. Avashti Security management from March, 1995 to December, 1995 and from December, 1996 to April, 1998. He worked under M/s. Great Ex. Servicemen Private Limited,

New Delhi. The management made payment to the agencies and agencies paid the workman and deposited the CPF. The workman was never appointed by the Food Corporation of India directly.

The workman has filed photocopy of attendance sheet. It has been written over first page with date and time register. It is on blank paper. It is not the format of the management. It does not bear any signature of the management.

It was further submitted that it is necessary to take attendance of watch and ward guard for the purpose of payment. The workman worked under the control and supervision of the security agencies who employed him.

The workman has admitted in his cross examination that he was initially engaged by Mr. Murjal in the year 1996. Thereafter he was shown to have been engaged through different agencies. The management has filed letters written by different agencies and agreements with the agencies. The security agencies have given certificate regarding the working of the workman. It indicates that the workman was engaged through security agencies. The security agency issued certificate.

From perusal of the documents filed by the management it becomes quite obvious that this workman was entrusted the work of guarding the training institute under construction by the security agencies. The workman worked under the control and supervision of the agencies.

Construction of training institute is not a perennial nature of work. Engagement of contract labour is not prohibited for security work temporary in nature. The workman was engaged for guarding the site of the construction. The such temporary nature of work the management can take the help of security agencies for watch and ward. The security agencies decided what is to be done and how it is to be done. The entire work of watch and ward of the building under construction was entrusted to the security agencies and they supplied security guards. The workman worked under the control and supervision of the security agency. The contract cannot be said to be sham or void. The work of guarding the premises under construction can be entrusted to security agencies. Regular employees are not required for such nature of temporary work.

There is no employer-employee relationship between the management and the petitioner. He is not entitled to get the benefits of Section 25 F of the ID Act, 1947.

The reference is referred to the Government Industrial Disputes Tribunal, Gurgaon. The Union of the management of Food Corporation of India, Gurgaon is requesting the removal of Shri Rakesh Kumar S/o Shri Nishid Naryan Singh, Chowkidar w.e.f. 6-4-1998 is legal and justified. The workman is not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 26-3-2008

RECORDING OFFICE

शुद्धि-पत्र

नई दिल्ली, 2 अप्रैल, 2008

का.आ. 908.—इस मंत्रालय की अधिसूचना संख्या एल-22012/259/1994-आईआर(सी-II), जो भारत सरकार मन्त्रालय में दिनांक 25-2-2008 को प्रकाशन हेतु भेजा गया था, की तीसरी लाइन में पंचाट संदर्भ संख्या 407/2K5 की बजाय संदर्भ संख्या 497/2K5 पढ़ा जाए।

[सं. एल-22012/259/1994-आईआर(सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

CORRENDUM

New Delhi, the 2nd April, 2008

S.O. 908.—The Reference No. mentioned in the third line of the notification of even number dated 25-2-2008 may be read as 497/2K5 instead of 407/2K5.

[F.No. L-22012/259/1994-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

नई दिल्ली, 2 अप्रैल, 2008

का.आ. 909.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू.डी. के प्रबंधन के संबंध निषेधकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अप न्यायालय नं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 10/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[सं. एल-42012/66/91-डी-II(बी)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 909.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 10/92) Central Government Industrial Tribunal-cum-Labour Court, No. II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on 2-4-2008.

[No. L-42012/66/91-D.II(B)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT-II, NEW DELHI**

Presiding Officer: R.N. Rai

I.D. No. 10/1992

In the matter of:

Shri Babu Lal,
S/o Shri Kanhiya Lal,
R/o A-221, J.J. Colony, Tigree,
Khanpur, New Delhi-110062.

Versus

The Executive Engineer,
CPWD (Civil),
AR-1st-CD-II,
C.G.O. Complex, Lodhi Road,
New Delhi.

AWARD

The Ministry of Labour by its letter No. L-42012/66/91/D-II(B) Central Government dated 19-12-1991/6-1-1992 has referred the following point for adjudication.

The point runs hereunder :

"Whether Sh. Babu Lal was the workman of CPWD, New Delhi? If so, whether the action of the management CPWD in terminating the services of Shri Babu Lal w.e.f. 28-6-90 is justified? If not, what relief he is entitled to and from what date?"

The workman applicant has filed claim statement. In the claim statement. It has been stated that the workman was a Government workman and he was a Carpenter w.e.f. 3-9-1988 and has drawn last wages @ Rs. 1000 P.M. The workman was deputed at CPWD (Civil), AE-1st-CD-II CGO Complex, Lodhi Road, New Delhi.

That as per the demand of the above said facilities the management have giving the assurance for providing the said facilities to the workman but instead of providing the legal facilities, the vindictive management without any cause or reason illegally, wrongfully and unjustifiably terminate the services of the workman on 28-6-90 without paying the terminal benefits. The said termination is illegal and void.

That on 28-6-90 when the workman Sh. Babu Lal demanded the above said legal facilities from the Assistant Engineer at the working place but the revengeful management reject the demand of the workman. While on service the workman was shocked on the same day i.e. 28-6-90 when the revengeful management asked him that his service were terminated with immediate effect. The said termination is illegal, wrong and unjustified and against the principal of natural justice. The management also withholds the wages for the period of June, 1990. The management has not issued any type of show cause notice or charge sheet prior to terminate the services of the workman.

That the workman so many times approached the management and demanded re-instatement with full back wages and continuity of services but the management willfully reject the demand of the workman and all the efforts of the workman are in vain.

That the whole action was taken by the management at once and asked the workman that his services were no longer required by the management/authority and his services were hereby terminated with immediate effect i.e. 28-6-90.

That the authorities action has been taken by the management which cast stigma on the career of the workman's services. The workman is entitled for reinstatement with full back wages and continuity of services with full benefits as the management has been illegally and wrongfully terminated the services of the workman. The workman is unemployed since the date of termination. That the said termination of services of the workman is illegal, bad in law, mala fide being the glaring act of victimization.

The management has filed written statement. In the written statement it has been stated that the suit is not maintainable as the claimant is not a Govt. workman and the Labour Courts have no jurisdiction to try this suit. The suit is liable to be dismissed on this very ground.

It is absolutely incorrect to suggest that the claimant was Government workman. He was never appointed as a Carpenter but was given the contract work to do the maintenance and repair work in Government residential quarters after executing short term agreement on prescribed Form 11-A of CPWD vide No. 30/AEI/CD-II/88-89 & No. 1 order (photo copy attached vide Annexure A&B). The work order was enclosed on 22-5-90 as the work was no more required.

It is wrong and denied that the claimant was performing any duties as a workman. He was not a workman but in the capacity of an individual contractor was dealing with the concerned Junior Engineer or Assistant Engineer. There was no question of any satisfaction with the performance of the "work and duties" of the workman by the management/respondents.

The claimant is not entitled for any such facilities claimed herein nor he was offered any such facilities in the work contract. The officials 1 to 2 had not come in contact with the claimant at any stage of the work contract and hence there was no question of any annoyance.

No assurance whatsoever was given to the claimant. There was no termination of services as alleged. The work contract expired on 22-5-90 and he was duly paid for the work done through work order for the period of his contract. The claimant was not entitled for any terminal benefits as alleged nor there any termination of services was involved in the instant case.

No payment was ever with-held. The contract dues for May, 90 were paid on 1-6-90 and the claimant had already received the payment after putting his signature in the books of accounts maintained by CPWD. There was no need for issue of any show cause notice or to serve charge sheet as alleged. The claimant was merely a contractor and his work contract was closed on 22-5-90.

Allegations contained in this para are absolutely wrong and hence denied. The claimant was not entitled for any type of wages or continuity of services. He was a contractor and was given the work against the work-order

Form 11-A. There was no question of reinstatement as alleged by the claimant.

Contents of this paragraph are absolutely wrong and hence denied. It was simply a work being done on contract basis. In view of the statement in the preceding para no. 6, no further reply is required in this regard.

The claimant was not entitled for any thing other than what was payable under the terms of the contract which had been paid to him from time to time. There was no question of rejecting any demand as alleged. No illegal, wrong or justifiable action has been taken against the claimant.

Contentions raised in the corresponding paras of the plaint are denied. It is only a figment of imagination. The claimant is not entitled for reinstatement nor for any wages because he was never employed as a workman by the Government and all the dues of the contractor have been duly cleared as per terms of the agreement.

It is reiterated that claimant was never a workman of the Deptt. The management/respondents do not come in picture in any way in the matter of his employment. There was no question of any victimization as alleged. The claimant was a contractor and not a workman.

The alleged demand notice dated 16-3-90 was nothing but an after thought device to project himself in the garb of workman to somehow get entry as a workman in CPWD. The claimant was working as a contractor and all the dealings with CPWD came to an end on the expiry of the contract on the completion of work on 22-5-90.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement.

Evidence of both the parties has been taken.

It transpires from perusal of the record that the case was posted on 21-2-2008 for argument. It has been transferred to this court vide order dated 11-2-2008. Notice by registered post was sent to both the parties on 21-2-2008 fixing 10-3-2008 for argument. On 10-3-2008 none appeared. The case was reserved for award. However, the parties were given 7 days time for advancing argument. None has turned up till date. The case is decided on the merits after perusing the oral as well as documentary evidence. Registered notice sent to both the parties has been received back. Both the parties have filed written brief. Perused the written brief.

It was submitted from the side of the workman that the claimant was engaged as a Carpenter w.e.f. 3-9-1988 and his last drawn salary was Rs. 800 per month. The workman demanded the facilities of a regular workman but instead of providing the legal facilities the vindictive management without any cause, illegally, wrongfully and unjustifiably terminated the services of the workman on 28-6-1990 without paying the terminal benefit.

It was submitted from the side of the management that the workman was not a government employee and this court has no jurisdiction to try this case. The CPWD is an industry run under the authority of the Central Government. The workman is allegedly casual daily rated worker of the respondent, so this court has jurisdiction.

From the perusal of the photocopy documents filed by the workman it transpires that he executed an agreement for doing the work of Carpenter for five months in September, 1988. He has signed all the pages of the agreement. The workman has filed another contract agreement dated 1-4-1989. The workman has worked for five months in view of the agreement.

It was submitted from the side of the management that the workman was given the contract work to do the maintenance and repair work in government residential quarters after executing short term agreement in prescribed form 11-A of CPWD in 1988-1989. The work order was closed on 22-5-1990 as there was no requirement. The claimant worked in the capacity of individual contractor under the concerned Engineers.

The contract of the work expired on 22-5-1990 and the claimant was duly paid for the work done through work order for the period of his contract.

The workman has worked almost for one and half years under two different contracts. It has been specifically stipulated in the contract that he will carry out the work of repair of government residential buildings.

The workman has admitted in his cross-examination that Ex. MW1 and MW2 bear his signature. He has further admitted that he did not know whether he was working as contractor or on appointment basis. He has further said that he has not read the document which he signed and he did not object to the signing of the documents at any stage. In the oral evidence the workman has also stated he has signed two agreements MW1 and MW2 and he was not sure whether he was working on contract basis or on appointment basis. In view of this also the workman does not deserve reinstatement.

It was further submitted that there was temporary increase in work and a Carpenter was required for repair of furniture of the government quarters, so the workman was given two short term contracts. One from September, 1988 and other from 1990. He performed the work of repair. The work was of temporary nature. Regular employees could not be engaged for such short work of repair of furniture of residential quarters.

The workman has not filed any other paper to prove that he worked continuously for 240 days under the control and supervision of the management except the two agreements. The work of temporary nature such as repair of furniture of government quarters can be got done by engaging any technician or skilled workman. Such work is not perennial in nature. Engagement as contractual labour for short term temporary work is not prohibited by Contract Labour (Regulation & Abolition) Act, 1970. The workman has worked as per assignments for a temporary nature of work and he has not proved that he has worked for 240 days under the control and supervision of the management.

The management has filed MW1 and MW2, contract agreements for repair of the furniture of government quarters. The workman has signed these two documents. He has been given fixed term appointment twice. He has himself stated that he was not sure whether he worked on contract basis or appointment basis. The termination of services of the workman is not retrenchment in view of Section 2 (oo) (bb) of the ID Act, 1947.

The reference is replied thus :

Sh. Babu Lal was not the workman of CPWD, New Delhi. The action of the management of CPWD in terminating the services of Shri Babu Lal w.e.f. 28-6-1990 is justified. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 24-4-2008

R.N. RAI, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

का.अ. 910.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महानगर टेलीफोन निगम लिमिटेड के प्रबंधन के संबंध निवोधकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. II, नई दिल्ली के पंचद (संदर्भ संख्या 19/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[सं एल-40012/100/89-डी.II(बी)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 910.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 19/90) Central Government Industrial Tribunal-cum-Labour Court No. II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mahanagar Telephone Nigam Limited and their workmen, which was received by the Central Government on 2-4-2008.

[No. L-40012/100/89-D.II(B)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL/CUM
LABOUR COURT-II, NEW DELHI

Presiding Officer: R.N. Rai

I.D. No. 19/1990

In the matter of:

Shri Ram Kishan,
S/o Shri Roop Lal,
R/o Vill. & P.O.: Gharrot,
Distt.: Faridabad (Haryana)

Versus

1. **Construction Officer (Cable) - V(S)**
Manager Telephone Nigam Ltd.
C-22, Community Center, Naraina
New Delhi-28.

2. **Chief General Manager**
Manager Telephone Nigam Ltd.
Khanabadi Lal Bhasan
New Delhi-50.

AWARD

The Ministry of Labour by its letter No. L-40012/100/89/D-II Central Government has referred the following point for adjudication.

The point runs as hereunder :

"Whether the action of the management of CDC V(S) MTNL in stopping Sh. Ram Kishan daily rate workman to join duty w.e.f. 29-12-88 is justified? If not, what relief the workman is entitled to?"

The workman applicant has filed claim statement. In the claim statement it has been stated that the petitioner workman was initially engaged as Daily Wages Workman by Asst. Engineer, Phones (Cable), Jorbagh Telephone Exchange, under Flyover Bridge, Defence Colony, New Delhi in September 1981 through Employment Exchange. This said office of engagement was under jurisdiction of erstwhile Delhi Telephone.

That ever since his engagement as Daily Wages workman, the petitioner has been in continuous and regular employment of the Management, earlier known as Delhi Telephone, till Feb. 1986 and later was transferred in MTNL, the present Management, consequent upon formation of Mahanagar Telephone Nigam Ltd., under the Govt. of India alongwith the other regular and Daily Wages workman and other staff till his arbitrary termination on 29-12-88.

That the workman developed illness and was unable to perform his duties. Accordingly, after giving intimation as regards to his inability to perform duties on account of his illness to his officer, the workman availed Medical Leave w.e.f. 26-9-87.

That the workman/petitioner was in Medical Leave w.e.f. 26-9-87 to 28-12-88 and that on being declared fit by the attending doctor on 28-12-88, the workman reported for duties on 29-12-88 alongwith Medical Certificate and Fitness Certificate with the Respondent being workers Unit Officer.

That however, to his utter surprise, the Respondent arbitrarily did not take the workman on duty. The workman's explanation and request went in vain.

That as such by not allowing workman to resume duties on 29-12-88, the Respondent No. 1 impliedly terminated the workman's services.

That the workman/petitioner was always willing to work, and is still willing to work, but due to hard and rigid

attitude of the respondents, the termination proceedings failed resulting in the present litigation.

That it is submitted that the Management never issued any notice to the workman and terminated his services in utter disregard to the principles of natural justice.

That by not allowing the workman/petitioner to resume his duties on his return from Medical Leave, the Management has acted in arbitrary manner violating petitioner's fundamental rights guaranteed under articles 14, 16(ii) and 21 of the Constitution of India.

That act of the management in allowing the Respondent to resume duties is unjustified and violative of the provision of Industrial Disputes.

That the act of the Management in terminating the services of the workman/petitioner is arbitrary, unjustified, inhuman causing much hardship to the petitioner as well as other having rendered years of service; the workman/petitioner was entitled for regularization and other consequential benefits and stage he has been deprived of this right. The Respondent but also he has been rendered unemployed already over 12 years.

The Management has filed written statement. In the written statement it has been stated that the telephone referred by the appropriate Government to the Hon'ble Tribunal is without application of law. The said law of reference is clearly applicable and the law of reference is not subject to the true nature of the alleged dispute between the parties. In this respect, the Hon'ble Tribunal has rightly ruled the dispute between M.T.N.L. (Respondent) and the services had been terminated. The Respondent has categorically stated that the services of the applicant were never terminated. In fact the termination of the services was on 25-9-87 and there was this termination of employment on the part of applicant and no termination of his services by the respondent. Thus the dispute between the parties could be referred was to whether there is a termination of the applicant's services or whether the applicant has abandoned his services of his own accord. However, the appropriate Government has found the dispute pending when there is a termination and this Hon'ble Court is to decide whether alleged termination is right. This is clearly wrong and does not depict the true nature of controversy between the parties. Such issue of Reference is not in law and is liable to be struck down as void.

That without prejudice the above, it is submitted on per the applicant's own showing, he did not attend the duties after 25-9-1987. He has alleged that he did not attend the duties due to this reason. It may be submitted that the applicant never informed about his alleged illness and never applied for any leave nor was granted any. He in fact did not come to duties w.e.f. 26-9-1987, for a long period. In the circumstances, respondent had no alternative but to presume that the

applicant was not willing to continue in service who was working only on daily-wage basis.

It may be submitted that as an after-thought and maliciously, the applicant is contending that the applicant reported for duty on 29-12-1988 although this is denied, according to the applicant's own admission his whereabouts from 26-9-87 to 28-12-88 were not known. This clearly amounts to abandonment of services by the applicant.

The applicant was engaged as daily rated mazdoor in the office of A.E. (Cable) in September, 1981 under the jurisdiction of erstwhile Delhi Telephones. He continued to work in the said unit till February, 1986. From February, 1986 to September, 1987, the applicant worked in the office of Construction Officer (Cable V-South), Mahanagar Telephone Nigam Limited.

It is further submitted that the applicant was never removed from service or his services were terminated. In fact he abandoned his services after 25-9-87. No communication either written or oral either about leave or his whereabouts was ever received by the Respondents. Submissions in this respect have already been made above.

It is denied that the applicant was suffering from T.B. and that he underwent treatment for one year. It is vehemently denied that he proceeded on medical leave w.e.f. 26-9-1987. Facts of the case are as stated above, according to which he abandoned his services w.e.f. 26-9-1987 and the said sickness is only an alibi to cover-up his unauthorized absence. No phone call ever received by any of his unit office, where he worked till 25-9-1987. Had he been really suffering from a dreaded diseases like T.B. he could have received treatment at Delhi itself where many specialist clinics are also available. Medical and fitness certificates appear to be manipulated one and the respondents would like to withhold any further comments on the medical or fitness certificate at this stage and would make appropriate submissions in this respect at relevant stage.

The applicant is taking this plea as an after thought he did not come to the duties w.e.f. 26-9-1987 and his whereabouts were also not known from for quite sometime and he had abandoned the job of his own accord. The question of termination of his services does not arise. The applicant has left blank about his so-called wages per day and therefore, the respondent is not in a position to comment on the same.

It is submitted that the respondent stated the correct position before the Conciliation Officer by filling reply dated 14-6-1989, a copy of which is enclosed and marked as Annexure-R-1.

The respondent has not terminated the services of the applicant and it is the applicant who has abandoned the job of his own accord, the question of arbitrary termination or violation of the provision of Industrial

Dispute Act etc. does not arise. All the allegations in these paras are based on the so-called termination by the respondent which itself is false, therefore, there is no force in any of these allegations.

The workman has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard argument from the side of the workman and perused the papers on the record.

Registered notice has been served on both the parties. The workman turned up. None has turned up from the side of the management till today for advancing argument.

It was submitted from the side of the workman that he was initially engaged as daily wages workman by Asstt. Engineer (Phones) in Defence Colony, New Delhi through employment exchange. He was initially engaged as daily wager but he has served the management continuously and regularly till 25-9-1987.

It was further submitted that the workman developed sickness and was unable to perform his duties. He informed the management accordingly on being declaring fit on 28-12-1988. The workman reported for duty on 28-12-1988 along with medical certificate. The workman was not taken on duty on 28-12-1988.

The case of the management is that the services of the workman were never terminated. In fact he abandoned his services after 25-9-1987. Since there was no termination of the services of the workman and the workman has abandoned services of his own accord. The termination is not illegal and the reference is not maintainable. The workman has himself stated that he fell ill and he did not come from 26-9-1987 to 29-12-1988. He was a casual labour. He has no right to post. When he did not turn up, other casual labour was engaged in his place. The workman in his cross examination has admitted as under :—

"It is correct that I had not sent any application or medical certificate to the management about my illness and request for leave. That I had telephonically informed one Mr. Pipili Sahib and requested him to grant me medical leave. I had telephoned the said officer after I had fallen ill but I cannot tell the date and month."

From the above admission it becomes quite obvious that the workman did not send any application or medical certificate to the management about his illness and he did not make any request for leave. The workman has further admitted that he telephoned to the concerned officer but he expressed his inability to tell the date and month.

He has further admitted that he did not re-collect the name of Doctor who treated him Kosiakan.

The workman has given his address in his claim Vill. & Post, Gharret, Distt. Faridabad (Haryana). He has filed photocopy of certificate of Dr. of Mathura.

The workman has further admitted as under :

"It is correct that I was not given any termination letter by the management and I myself stopped coming to resume my work."

The workman has admitted himself that he stopped coming to the work. The workman has not filed any prescription of his treatment of TB. TB is not such a disease that a patient could not move. In case he suffered by TB. He could still contact the management. He has admitted that he did not send any application along with medical certificate. He has admitted that he was absent for one year. He has admitted that he stopped coming to work himself. Section 25F of the ID Act, 1947 is attracted only when there is illegal and arbitrary termination. This is a case of abandonment. The workman was a daily wage. He has no right to service. He has voluntarily abandoned the work of casual labour. In such circumstances the management may engage another casual labour in his place.

The workman has not proved that he was suffering from TB. He has filed only photocopy of medical certificate. The management has termed it as forged one. The workman is residing at Faridabad whereas the certificate of the Dr. is of Mathura. The certificate does not appear to be genuine. The workman has not proved his claim statement. The provisions of Section 25-F of ID Act, 1947 is not attracted. It is a case abandonment and not of termination.

The reference is replied thus :

The action of the management of COC—V(S) MTNL in stopping Sh. Ram Kishan daily rated workman to join duty w.e.f. 29-12-88 is justified. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 25-3-2008

R.N. RAI, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

का.प्र. 911.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार मैं, केन्द्रीय सरकार कलाकृति सरन भिरदुल, बसिन्धला को प्रत्यक्ष को संघटन निरोधकों और उनके कार्यकर्ता के बीच, अनुबंध में विवाद औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथ न्यायालय में— II, नई दिल्ली के पंचाट (संदर्भ संख्या 67/91) को प्रस्तुत करती हूँ, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[का.सं. एल-42012/159/90-आईआर(डीयू)]

सत्य कुमार, डेस्क अधिकारी

New Delhi, the 2nd April, 2008.

S.O. 911.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67/91) Central Government Industrial Tribunal-Labour Court No.-II, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Kalawati Saran Children Hospital and their workmen, which was received by the Central Government on 2-4-2008.

[P.No. L-42012/159/90-IR(OU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, NEW DELHI

Presiding Officer: R.N. Rai

L.D. No. 67/1991

In the matter of:

Smt. Radha Devi,
W/o Shri Raju,
Safai Karamchari/Sweeper,
C/o Hospital Employees Union,
Aggarwal Bhawan, G.T. Road,
Tis Hazari Courts,
Delhi-110054

..... Claimant

Verus

The Medical Superintendent,
M/s. Kalawati Saran Children's Hospital,
Baba Kharak Singh Marg,
New Delhi-110001.

..... Respondent

AWARD

The Ministry of Labour by its letter No. L-42012/159/90-IR(OU) Central Government dated 3-5-1991 has referred the following points for adjudication:

The point runs as hereunder :

"Whether the action of the management of Kalawati Saran Children Hospital, New Delhi in terminating the services of Smt. Radha Devi w.e.f. 10-5-1989 is justified? If not, to what relief she is entitled to and from what date?"

The workman applicant has filed claim statement. In the claim statement it has been stated that Smt. Radha Devi joined into the employment of Kalawati Saran Children's Hospital w.e.f. 29-5-1986 as a Safai Karamchari. She was being treated as a daily rated/casual/summer staff worker and was being paid wages as fixed and revised from time to time under the Minimum Wages Act by the Delhi Administration, Delhi for unskilled workers. However, in the month of April, 1989 she was being paid Rs. 850 per month while her counterparts who were doing the identical

work but being treated as regular employees were being paid their salaries in the pay scale of Rs. 750—940/- with usual allowances admissible under the rules. They were also enjoying other benefits like uniform, casual and medical leave, gazetted/festival/restricted holidays and medical leave etc. which were completely denied to the workman aforesaid. She has an unblemished and interrupted record of service to her credit.

That the services of the workman aforesaid have been terminated w.e.f. 10-5-1989 by refusal of work by Sh. Ved Prakash Tanwar, Supervisor.

That the above action of the management is wholly illegal, bad, unjust and malafide for the following amongst other reasons.

That the job against which the workman aforesaid was working was of a regular and permanent nature of job. In fact, she was working against a vacant post of Safai Karamchari.

That employing persons on regular nature of jobs and treating them as casual/daily rated/master roll workers for indefinite period and paying them lesser remuneration than those who are doing the identical work amounts to unfair labour practices as provided in Section 2 (ra) read with item No. 10 of the Vth Schedule of the ID Act, 1947.

That the workman aforesaid has been meted out with hostile discrimination as juniors to her have been retained in service and she has been thrown out of job.

That it amounts to sheer exploitation of labour.

That it is violative of Article 14, 16 and 39 (d) of the Constitution of India.

That no seniority list was displayed, no notice was given, no notice pay was either offered or paid and no service compensation was either offered or paid to the workman aforesaid at the time of termination of services.

That no notice was served on the appropriate Government for effecting the retrenchment of the workman aforesaid.

That even otherwise, the impugned termination of services is violative of Sections 25 F, G, & H of the ID Act, 1947 read with Rules 76 and 77 of the Industrial Disputes (Central) Rules, 1957.

That the workman aforesaid is unemployed since 10-5-1989.

The management has filed written statement. In the written statement it has been stated that the matter before this Hon'ble Tribunal is misconceived and is not maintainable under law as the applicant had never been the regular employee of the Hospital, she was only daily rated casual worker and she was only engaged whenever there was any work for her in the Hospital.

That the Hospitals do not come within the purview of the ID Act, 1947 in view of its amendment which took

place in 1982. All Hospitals have been excluded as such this Hon'ble Tribunal has no jurisdiction.

That Lady Harding Medical College and Associated Hospital including Kalawati Saran Children's Hospital is a subordinate office of DGHS/M/o. Health and Family Welfare and all the rules and regulations of the Central Government are applicable to the employees of this institution. This institution was taken over by the GOI on 1-2-1978 vide acquisition and Misc. Provisions Act, 1977. In this Act this institution has been excluded from the purview of the ID Act, 1947. Specific provision made is reproduced below :—

The Act under Chapter 4 — Misc. para 10(2) provides as under :—

"Notwithstanding anything contained in the ID Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employees employed in, or in connection with the affairs of the Lady Harding College and Hospital or the Kalawati Saran Children's Hospital to the Central Government shall not entitle any such officer or other employees to any other compensation under that Act or any other law and no such claim shall be entertained by any Court/Tribunal or other authority."

The Supreme Court over ruled their earlier judgment in the management of Safdarjung Hospital Vs. Kuldeep Singh Sethi and held all hospitals would be within the purview of the ID Act, 1947. The Act has however been amended by Industrial Disputes (Amendment) Act, 1982 to exclude other hospitals, dispensaries, educational scientific research or training institutes.

In view of the above Labour Court does not have jurisdiction to try the case of Smt. Radha Devi, a daily wage worker.

An indisciplined and inefficient daily worker cannot claim the right of being kept in service.

It is stated that Smt. Radha Devi was engaged on daily wages basis w.e.f. 29th May, 1986 with usual breaks.

Her work was not found satisfactory. There were repeated written and verbal complaints about irregular attendance, unsatisfactory work from units wherever she was posted to work. Therefore, her services as a daily wage employee were discontinued.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of her claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

It was submitted from the side of the workman that the workman Smt. Radha Devi joined in the employment of

Kalawati Saran Children Hospital w.e.f. 29-5-1986 as a Safai Karamchari. She was being treated as daily wagee and was being paid wages as fixed and revised.

That the services of this workman were illegally terminated on 10-5-1989 by refusal of work by Sh. Ved Parkash Tasyar, Supervisor. It was further submitted that the workman was working against the job of regular and permanent nature of work. She was working at the vacant post of Safai Karamchari. This workman has been meted out hostile designation as junior to her have been retained in service and she has been thrown out of job. No seniority list was displayed. No notice was given. No retrenchment compensation was given to this workman. The management has violated Section 25F, G & H of the ID Act, 1947 read with rule 76 and 77 of the ID Central (Rules) 1957.

It was submitted from the side of the management that the matter before this Tribunal is mis-conceived and is not maintainable as the workman is not a regular employee of the hospital. She was daily rated casual labour and she was only engaged whenever there was any work for her in the hospital.

It was further submitted that the hospital do not come within the purview of ID Act, 1947 in view of its amendment which took place in 1982. All hospitals have been excluded from the jurisdiction of the Industrial Tribunal.

It was further submitted that the Hon'ble Apex Court in the judgment *Safdarjung Hospital Vs. Kuldeep Singh Sethi* held that all hospitals would be within the purview of ID Act, 1947 but the Act has been amended by Amending Act, 1982 to exclude the hospitals, dispensaries, Scientific Research and Training Institute etc.

So far as the Amended Act, 1982 is concerned it has not perhaps been enforced so far. It is true that in the Amending Act Hospitals, Dispensaries etc have been excluded from the definition of Industry. The decision of the Bangalore Water Supply of 1978 of the Hon'ble Apex Court still holds the field and wherever there is employer-employee relationship and there is existence of systematic activities which may not be for gains or manufacturing of commodities, the industry will come under the definition of industry. The change of definition of industry included in the Amending Act of 1982 has not been enforced, so the management is still an industry in view of the judgment of the Constitution Bench of the Hon'ble Apex Court of India.

The management has filed documents regarding the working of this workman. According to the own admission of the management the workman has worked for 226 days from 1986 to March, 1987. The workman has further worked from April, 1987 to March, 1988 for 240 days. The management has also admitted that in the years 1988 and 1989, the workman worked for 35 days and in the year 1989-1990 she has worked for 25 days. The workman was refused work on 10-05-1989 as is the case of the claimant.

From the certified copy of the working days filed by the management it becomes quite obvious that the workman has worked for 226 days in the year 1986-1987 and 242 days in the year 1987-1988. Thus, the workman has completed 240 days work in 1986-87 & 1987-88 as Sundays and Holidays are to be calculated while calculating working days in view of the judgment of the Hon'ble Apex Court and in view of Section 25 (b) of the ID Act, 1947 which defines continuous working.

Thus, the workman has worked for 240 days in two years. In the preceding other two years she has completed only 35 days and 25 days work.

It is true that the workman has not completed 240 days work in a calendar year prior to termination of service or within 12 months preceding the date of termination of her service. However, she has worked for 240 days in the previous two years.

It is settled law that in case a workman has worked for 240 days in any of the years of his employment he is entitled to retrenchment compensation and notice pay. The management has not paid any retrenchment compensation or pay in lieu of notice to the workman. It was submitted from the side of the workman that the workman was not punctual and sincere in her work. She was transferred to different places.

From perusal of the photocopy documents it transpires that the workman was removed as she was not properly performing her work and there were several complaints against her, so the management was compelled to discontinue her.

From perusal of the working days of this workman in 1988-1989 it becomes quite obvious that she was given only 35 days work in 1989-90 and she was given only 25 days work also. This discloses the fact that the workman was not performing the duties sincerely and honestly i.e. why she was not permitted to perform her duties in 1988-89 and 1989-90 for the whole year.

It was submitted from the side of the management that no notice regarding un-satisfactory work of the workman has been given to her. The management was duty bound to give memo to the workman and serve a chargesheet and hold inquiry to prove the fact that the performance of the workman was not satisfactory.

The workman was not a regular employee. She was a casual daily rated employee. Casual daily rated employee has no right to any post. She has only a right of being conferred temporary status of a muster roll after performing duties for some years as prescribed. In case the management is compelled to give memo and hold inquiry in respect of unsatisfactory performance of casual labourers, there will be no end of chargesheets and inquiries. So far as casual labours are concerned they can be removed in case their performances are not found satisfactory. A casual worker is just like probationer and

he has no right to post. Serving of charge sheet and holding of the inquiry is not essential.

The services of this workman was not satisfactory. It can be ascertained by job assigned to her in 1988-89 and 89-90. She has been assigned job for only 60 days in these two years. This establishes the fact that she was not very much sincere in performing her duties and i.e. why she was not engaged all the year round. The management has communicated this fact to the Desk Officer when she made a complaint. Thus, the work of this workman was not satisfactory i.e. why the management did not assign her further duties in her last two years.

The workman has performed 240 days in the year 1986, 1987, 1988 and she has not been paid any retrenchment compensation or pay in lieu notice. Even if the management found her service un-satisfactory the management was duty bound to make payment of pay in lieu of notice and retrenchment compensation for two years services performed for more than 240 days in every year. This workman is not entitled to reinstatement as her work was not found satisfactory but she is entitled to compensation. The management should have made payment of 15 days wages for each completed years and one month's pay in-lieu of notice. The management has not done so. She has worked only for two years. In the circumstances she is entitled to Rs.50,000/- compensation in lieu of reinstatement and pay in lieu of notice not paid in the year 1990.

The reference is replied thus: The action of the management of Kalavati Saran Children Hospital, New Delhi in terminating the services of Smt. Radha Devi w.e.f. 10-05-1989 is not absolutely justified. The workman is entitled to compensation of Rs.50,000/- (Rs. Fifty Thousand Only) by way of compensation within two months from the date of the publication of the award.

The award is given accordingly.

Date: 26-3-2008

R. N. RAI, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

क्र.आ. 912.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार टेलीकोम फैक्ट्री के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ग्राम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 16/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[फा. सं. एल-40012/346/99-आई.आर. (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 912.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2000)

Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Factory and their workman, which was received by the Central Government on 02-04-2008.

[F. No. L-40012/346/99-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 16 of 2000

Parties: Employers in relation to the management of Chief General Manager, Telecom Factory and Their workmen.

Present: Mr. Justice C.P. Mishra, Presiding Officer

APPEARANCE :-

On behalf of the Management	: Mr. R.N. Bag, Advocate.
On behalf of the Workmen	: Mr. K. Chatterjee, Advocate.
State	: West Bengal.
Industry	: Telephones.
Dated:	: 26th March, 2008

AWARD

By Order No.L-40012/346/99-IR(DU) dated 10-02-2000 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :-

"Whether the action of the management of Telecom Factory, Gopalpur (W.B.) in terminating the services of Sh. Sanjib Das w.e.f 1-10-98 is legal and justified? If not, to what relief he is entitled?"

2. When the case is called out today, none appears for the workman, nor any step is taken on his behalf to proceed with the matter. Learned Advocate for the management is present and prays that appropriate order may be passed for disposal of the matter. It appears from the record that none is appearing on behalf of the workmen since 17-01-2007 in spite of service of notice, nor any step is taken on his behalf so that the matter may be disposed of on merit. In such circumstance it is clear that the workman is no longer interested in the present matter under reference.

3. Since the workman is no longer interested to proceed with the matter under reference, this Tribunal has no other alternative but to dispose of the present reference by passing a "No Dispute" Award. A "No Dispute" Award is accordingly passed and the present reference is disposed of.

Dated Kolkata 26-3-2008

C. P. MISHRA, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

का.अ. 913.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधकों के संघट्ट निवाजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अन न्यायालय न. II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 735/2005) को प्रस्तुतित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[फा. सं. एल-40012/380/99-आई अर(डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 913.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 735/2005) Central Government Indus. Tribunal-cum Labour Court No II, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 2-04-2008.

[F.No. L-40012/380/99-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II, SECTOR 18-A,
CHANDIGARH

PRESIDING OFFICER: SHRI KULDIP SINGH

CASE ID: NO 735/2K5

Registered on: 1-9-2005

Date of Decision: 14-3-2008

Madan Lal S/o. Shri Gurbaux Singh C/o Shri N.K. Jeet,
President, Telecoms Labour Union, Mohalla Hari Nagar, Lal
Singh Basti Road, Bhatinda.

—Petitioner

Versus

The General Manager, Telecom, Bhatinda, Punjab.

—Respondent

APPEARANCE

For the Workman : Mr. N. K. Jeet, A.R.

For the Management : Mr. G. C. Babbar, Advocats.

AWARD

The parties continue to be absent. The workman last attended the Tribunal on 2nd of August, 2007 on which date the workman was directed to produce his evidence. On the request of the workman a direction was issued to the Management to produce the record summoned by the workman or in the alternative file an affidavit that the record is not available. The Management reported in writing that the record is not available but failed to certify that fact by

an affidavit of some responsible officer of the Management. The workman has also shown lack of interest in following his case. After 8th of Dec, 2006 the workman appeared only on 2nd of August, 2007 and neither before nor thereafter. He has not appeared as witness in the case to prove his affidavit. He has also not brought on record any evidence to show that the Management of General Manager, Telecom, Bhatinda had terminated his services illegally and without any justification. The claim made by him has been denied by the Management in their written statement. Besides having taken legal pleas it is their claim that the Management had entered into contract with different contractors for the supply of labour and there was no occasion for engaging the workman by the Management. The copies of the agreements placed on record support their claim. Against this the workman has not produced any evidence. So much so he himself has felt shy to come and stand to the cross-examination of Management. Thus his claim has remained only on paper. On record there is no evidence to show that the General Manager, Telecom, Bhatinda had engaged the workman and he had terminated his services illegally. Thus the reference received from Ministry of Labour, Government of India vide their No. L-40012/380/99/IR(DU) dated 9th of Feb, 2000 is answered against the workman holding that he is not entitled to any relief.

Let a copy of this award be sent to the appropriate Government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

का.अ. 914.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधकों के संघट्ट निवाजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अन न्यायालय न. II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 215/2005) को प्रस्तुतित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[फा. सं. एल-40012/233/2002-आई अर(डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 914.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 215/2005 Cent. Govt. Indus. Tribunal-cum Labour Court No II, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 02-04-2008.

[F.No. L-40012/233/2002-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE**CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, SECTOR 18-A, CHANDIGARH****PRESIDING OFFICER: SHRI KULDIP SINGH****CASE I.D. NO: 215/2K5****Registered on: 3-8-2005****Date of Decision: 14-3-2008****Mohinder Singh S/o Sh. Amar Nath R/o Village & P.O, Jaja,
Tehsil Dasuya, Hoshiarpur.****PETITIONER****Versus****The General Manager, Telecom, Hoshiarpur.****RESPONDENT****APPEARANCE****For the Workman: Messrs. Gopal Kumar Saini
and S.S. Khokhar, Advocates.****For the Management: Ms. Deepali Puri, Advocate.****AWARD**

The following reference was received from Ministry of Labour, Government of India for adjudication vide their order No L-40012/233/2002(IR (DU) dated 25th of March, 2003:

"Whether the action of General Manager, Telecom, District Hoshiarpur in terminating the services of Sh. Mohinder Singh S/o Sh. Amar Nath, w.e.f. 1/3/99 is legal and just? If not, what relief the workman is entitled to and from which date?"

In response to the notice of the reference issued by this tribunal the parties appeared. The workman filed his statement of claim and supported the same with his affidavit and Photo copies of the document marked as A to G. He also appeared as witness in the case and was cross-examined by the Management through their counsel. The conduct of Management in putting upon their case has remained quite strange. All through the proceedings they did not file the authority letter of their counsel who was allowed to appear on their behalf on her filing the Memorandum of appearance dated 25th of August, 2003. They filed reply to the statement of claim dated 25th of Feb, 2005 through Shri Dharam Pal, SDE(Legal) in the office of GMT(D) Hoshiarpur without showing that said SDE was duly authorized by the General Manager, Telecom, District Hoshiarpur to appear on his behalf. The reply was also signed by the MS Deepali Puri, Advocate who too did so without authority as stated earlier. Her authority to appear in the case is not on record. The Management placed on record the Affidavit of said Dharam Pal in support of their reply, but the reading of the affidavit shows that the Management went far beyond their pleadings in controverting the facts claimed by the workman without first controverting the same in the reply whereas the affidavits are filed only in support of the pleadings. The

Management claimed that they are not an industry but has produced no evidence in support of their claim. They further claimed that the workman had earlier raised the same claim which resulted into a reference under I.D. Act registered as ID. 54 of 2001 but they have not filed any proof to show that both the references arise out of the same cause of action. The management, thus has failed to assist the tribunal properly in answering the reference in hand.

It is further to be taken note of that the workman filed an application dated 19th of April, 2006 asking for a direction to the Management to produce the original record of document, photo copies of which he had placed on record and marked as 'A' to 'G'. The notice of the application was given to the management, but they did not file reply to it and the tribunal by its order dated 21st of Feb, 2007 directed the Management to produce the documents in the case but they have not produced the said documents. In the affidavit of Shri Dharam pal, their witness they claimed that they had not engaged the workman; and that they had an agreement with one Shri Ram Krishan, Budh Ram Colony, Jodhamal Road, Hoshiarpur for providing the labour for performing emergency work. But they have failed to produce the agreement or even the affidavit of the contractor named to show that there was any such contract between the management and the contractor for providing labour for emergency work. Another fact to be taken note of is the Management stopped appearing in the case through representative or counsel since 7th of Sept, 2006 and the workman last attended the Tribunal on 21st of Feb, 2007 and thereafter he too has not appeared. It is in this situation the tribunal is answering the reference and it is being answered on the basis of the evidence available on record.

The claim of the workman is that he was appointed as daily wager against a permanent post on 1st of March, 1992 and he worked for the Management till 28th of Feb, 1999 under the control of SDO Telephones, Umar, Tanda and over all control of General Manager, Telecom, Hoshiarpur. That on 10th of Feb. 1999 the workman made a representation of his regularization in service claiming to have served the Management for more than 240 days without break which annoyed the management and they terminated his services w.e.f. 1st of March, 1999 illegally without passing any written order as by then he had put in seven years of service for the Management without break and had worked in laying the cable work in UMA Exchange, Umar, Tanda and in digging the trenches for underground cable along with Gurdeep Lal. That the work of the workman was certified by Messrs. Surinder Singh and Inderjit Singh on behalf of the respondents. The workman has further alleged that the Management resorted to unfair labour practice by not issuing appointment order in his favour and for not deciding the representations made by him. He has also claimed that the termination of his service is illegal, unwarranted and bad in law since the Management did not hold any enquiry nor charge sheeted him.

The Management has opposed the claim of the workman saying that he had raised the same claim which was registered as ID No. 54 of 2001 pending before CGIT, Chandigarh; that the workman by submitting fresh claim on the basis of same facts is not worth consideration and the same requires to be dismissed. They have stated nothing about the facts alleged by the workman in his statement as to when he was engaged, how long he worked and the termination of workman by the Management was in an illegal manner. Since the Management in their reply has not denied the facts stated in the statement of claim nor they have placed on record the copy of the counter they claimed to have been filed by them in I.D. No. 54 of 2001; it is to be presumed that they have admitted the claim of the workman. As noted above the Management controverted the facts claimed by the workman in his statement of claim in the affidavit of Shri Dharam Pal, their witness, who was not produced by the Management for the cross-examination of the workman. They cannot claim that they had no occasions to do that as the Management stopped appearing in the case w.e.f. 7th of Nov, 2006. They did not comply with the directions issued to them on 21st of Feb, 2007, directing them to produce the record. Even if we accept that whatever facts Shri Dharam Pal brought on record in his affidavit for the Management be read as reply to the claim of the workman, then also the position cannot be better since the Management has not only failed to produce their witness to prove the affidavit filed by him but also has failed to produce the record or any other evidence to show that no such record was maintained by them; and that they had not engaged the workman, as is claimed by him, or that he had not served the Management for the period he claimed to have served them; and they had an agreement with contractor to provide labour to them for emergency service. In the circumstances the evidence produced by the workman has to be accepted as true as he was cross-examined by the Management.

The perusal of the documents marked 'A' to G show that the workman had served the Management for more than 240 days in each year from 1st of March, 1992 to 28th of Feb. 1999, more specifically twelve months preceding the date of his disengagement on 1st of March, 1999. There has also come no evidence on record to show that before the disengagement of the workman the Management had given him notice or paid wages for the notice period and retrenchment compensation or they followed the provisions of Section 25-F of the Act. Therefore, it is held that the Management had terminated the services of the workman without following the provisions of Section 25-F of Industrial Disputes Act, 1947. The disengagement of the workman is, therefore, held to be bad in law and is hereby quashed. Now the question to be decided is as to what relief the workman is entitled to. There has come no evidence on record to show that the engagement of the workman was in an open competition or by following the procedure

prescribed for appointments. Therefore, in the light of law laid down by the Hon'ble Supreme Court of India, in the case Secretary, State of Karnataka and Ors. Versus Umadevi and Ors. reported as (2006) 4 SCC 1, the workman cannot be reinstated in service, but he is definitely entitled for compensation for his illegal retrenchment. The Management by their illegal act has kept the workman away from service for all these years, putting him and his family in suffering. Considering the facts and circumstances of the case I am of the opinion that the workman is entitled to a compensation of rupees one lakh. The Management is directed to pay this compensation to the workman within three months from the date the award becomes enforceable under law. In case they fail to pay the same, the workman shall also be entitled to interest on the awarded amount along with interest @ 9% P.A. from the said date. Let a copy of this award be sent to the appropriate Government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

का.अ. 915.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसारण में, केन्द्रीय सरकार नू बैंक ऑफ इंडिया (पंजाब नेशनल बैंक में विलय) के प्रभुत्व के संघट निषेधकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथ न्यायालय में 11, नई दिल्ली के पंचद (संदर्भ संख्या 35/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2008 को प्राप्त हुआ था।

[सं. एल-12012/327/91-आई और बी-II]

राजिंदर कुमार, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 915.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 35/1992) of the Central Government Industrial Tribunal-cum-Labour Court No.2, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of New Bank of India (merged with Punjab National Bank) and their workmen, which was received by the Central Government on 1-4-2008.

[No. L-12012/327/91-IR(B-II)]

RAJINDER KUMAR, Desk Officer
ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-NEW DELHI

PRESIDING OFFICER: R.N. RAI ID NO.35/1992
IN THE MATTER OF:

Sh. Prabal,
C/o. Sh. Kumaram,
R/o. 7/486, Trilok Park,
New Delhi-110091.

- Claimant

VERSUS

The Dy. General Manager,
New Bank of India,
2nd Floor, Vikrant Tower,
Rajendra Place, New Delhi.

— Respondents

AWARD

The Ministry of Labour by its letter No.L-12012/327/91-IR(B-ID) Central Government Dt. 26-03-1992 has referred the following point for adjudication :

The point runs as hereunder:—

"Whether the management of New Bank of India had employed Sh. Prahalad as a sub-staff in their different branches i.e. Extension Counter, Salwan Public School, Cannought Circus, Holiday Home & Janpath etc. from May, 1985 to July, 1990 and thereafter terminated his services w.e.f. 24-07-1990 and if so, whether the termination of his employment was just and legal? If not, to what relief is the workman entitled to."

The workman applicant has filed claim statement. In the claim statement it is stated that the workman joined New Bank of India as its employees in July, 1984 at its extension counter at Salwan Public School, Rajindra Nagar, New Delhi. The applicant worked for about three months there as a temporary Peon.

That from 3rd May, 1985 to 22nd June, 1989 he worked as Peon at L-Block, Cannought Circus, New Delhi Branch of the said bank.

That he was asked to join at Bangalore at Holiday Home of the said bank. He reported for duty on 26-06-1989 and remained posted there till August, 1989.

That in August, 1989 itself he was asked to join at Janpath, Cannought Place, New Delhi Branch of the said bank. He worked at the said Janpath Branch as Peon till August, 1990 when he was illegally removed from the service. He was not given any notice, nor any wages in lieu of notice. He was not paid any retrenchment compensation either from 1984 till date quite a few persons have been recruited in the sub-staff category as Peons in the bank as regular and permanent employees. Thus, he had been denied the right of preferential treatment for regular absorption against permanent vacancies. Denial of this right amounts to violation of provisions of Shastri Award, Desai Award and B.P. Settlements (these are mandatory provisions).

Not only this during his employment he was being underpaid. The principle of equal wages equal work was denied. He was asked to work much beyond the working hours without any payment for the same.

Payment vouchers by which he used to be paid his wages for the periods of employment with the bank are in possession of the bank. However, copies of some of the vouchers were provided to me during the conciliation proceedings. As the vouchers are in the custody of the said employer, the respondent management may please be asked to submit the same along with their written statement.

The management has filed written statement. In the written statement it has been stated that the reference made before this court is bad because it does not reflect the real dispute between the parties. Moreover the court constituted under the Act cannot travel beyond the reference proceeds. Hence the alleged claim filed by the so called workman merits dismissal.

That the alleged workman has not come before this court with clean hands and concocted and made up the story/facts according to his taste and moreover, it is admitted case that the alleged claimant was never given the appointment letter because he was never in the employment of New Bank of India, the plaintiff bank, as alleged. Hence the alleged claim filed by the so called workman merits dismissal.

That the so called workman has never served any demand notice upon the management as required under law within reasonable time or before raising the industrial dispute. Hence the alleged claim filed by the so called claimant merits dismissal with cost.

That the alleged claim filed by the so called workman is untenable since the claim is totally misconceived, baseless and without any footing as no such employee in the name of the claimant was working in the bank during the period as alleged by the so called workman. In the absence of any documentary evidence/appointment letter it cannot even be presumed that he has ever worked in the employment of the bank either on regular or temporary basis. Hence the alleged claim merits dismissal with cost.

That the alleged claim filed by the so called workman is much belated and merits dismissal on this score alone being not maintainable. Hence the same merits dismissal with cost.

It is wrong and denied that alleged claimant has worked from 3rd May, 1985 to 22nd June, 1989 at L-Block, Cannought Place, New Delhi Branch of the bank.

It is wrong and denied that the so called claimant was ever asked to join at Bangalore at Holiday Home of the bank and he reported for duty from 26-06-1989 to August, 1989.

It is wrong and vehemently denied that the workman was ever employee of the respondent. When he was never in the service of the bank the question of his removal from the service does not arise nor the question of giving any notice, or wages in lieu of notice, or any retrenchment compensation does not arise. When he was never appointed in service then how the removal could be illegal as alleged.

It is wrong and denied that the claimant was ever employed of the respondent. The question that from 1984 till date quite a few persons have been recruited in the sub-staff category as Peons in the bank as regular and permanent employees, does not arise. It is also wrong and denied that

he had been denied the right of preferential treatment for regular absorption against permanent vacancies. When nothing wrong was done as alleged the question of provisions of Bastri Award and Desai Award does not arise. The whole contents of the para under reply are wrong and vehemently denied.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Written brief has been filed. Heard parties and perused the written brief.

From perusal of the pleadings of the parties the following issues arise for adjudication:

1. Whether the workman has completed 240 days during the tenure of his employment?
2. Whether the workman is entitled to reinstatement?
3. To what amount of back wages the workman is entitled to?

ISSUE NO. 1

It was submitted from the side of the workman that he joined (New Bank of India) referred to as respondent as its employee in July, 1984 at its extension counter Salwan Public School, Rajender Nagar, New Delhi for 3 months as temporary Peon. He worked as temporary Peon from 3rd May, 1985 to 22nd June, 1989 as Peon at L-Block, Cannought Circle, New Delhi Branch of the Bank.

It was submitted that he joined at Bangalore at Holiday Home of the said Bank. He reported for duty on 26-06-1984 and remained posted there till August, 1989. In August 1989 he was asked to join at Janpath, New Delhi of the said bank. He worked there till August, 1990. Thereafter he was illegally removed from service without any pay or retrenchment compensation.

It was further submitted that from 1984 till date a few persons have been regularized in the sub-staff category as Peon in the bank as regular and permanent employees. He was under paid during his employment and he was denied equal pay for equal work. Payment was made to him through payment vouchers.

The workman has filed photocopy of vouchers on the letter head of the management. He has filed vouchers of the bank relating to 1983, 1988, 1989 & 1990. These vouchers prove the engagement of the workman with the bank.

Mr. B.K. Batra the Personnel Officer has filed affidavit in evidence. In his affidavit he has stated that the workman was not on the pay roll of the branch of the bank. He was merely engaged on contract basis to supply or bring the stationery and other articles as required by the bank from

time to time and he was also doing other menial works like filling water in cooler and he was not to be paid for such manual work on vouchers. He was not recruited by the bank as per the recruitment rules, so he was not allowed to put his signature in the register.

The workman has examined himself. One Mr. A.K. Chopra, S/o: Sh. P.N. Chopra has filed affidavit in his evidence. He is an employee of the bank and he has stated that he visited Bangalore from 26-06-1989 to 4-7-1989 and stayed at Holiday Home at Bangalore. He saw the workman working there.

Another witness Sh. K.L. Abroy has also filed affidavit. He was a Clerk in that branch. He has admitted the working of this workman in the branch. He has named the work performed by the workman as handing over of bank's books/papers from one seat to another. He used to do the business of cleaning of counter, table, furniture etc. He has further stated in his affidavit that he did everything that a Peon does. This witness is an employee of the bank. He has not been cross examined.

Another witness Mr. Man Chand has also filed his affidavit. He has stated in his affidavit that the workman worked as Peon at the extension counter and this witness also worked with him. He has also stated that the workman performed all the duties which a peon does. These two witnesses, the employees of the bank have filed affidavit but they have not been cross-examined by the bank.

The workman has filed letters and vouchers on which he has been authorized to receive daks and papers. From perusal of the affidavit filed by the three employees it becomes quite obvious that the workman worked as a temporary Peon in the bank as has been mentioned in the claim statement. He was deputed to Holiday Home at Bangalore. The bank employee who stayed at Holiday Home at Bangalore has also deposed that the workman was working as Peon there. So the averments of the claim statement of the workman that he worked at different counters and branches of the bank and Holiday Home at Bangalore is proved to the hilt by the affidavit of the three employees of the bank. These employees of the bank have not been cross-examined by the management. Their testimony goes untroubled, so on the basis of affidavit of these three employees who have appeared as MW2, MW3 & MW4 it is proved that the workman was employed as Peon in the different branches of the bank from July, 1984 to August, 1990.

The workman has atleast worked for 240 days in 1985, 1986, 1987, 1988 & 1989. In 1984 he has worked from July to December and in the year 1990 he has worked up to August, 1990. He has worked for 240 days even in the year 1990, so the workman has worked for 240 days every year in the bank in the years referred to above.

It was submitted from the side of the bank that he was not recruited as per the recruitment rules so he was not permitted to put his signature on the attendance register.

It was further submitted from the side of the bank that he worked on contract basis and he was made payments for the period he worked. He was not recruited as per the recruitment rules, so there is no question of reinstatement of this workman.

The workman has worked as Peon for almost 6-7 years. He has worked continuously for 240 days in every year of his employment.

This issue is decided accordingly.

ISSUE NO. 2

It was submitted from the side of the bank that reinstatement is not the only relief in all the cases of illegal termination. Section 11 A of the ID Act, 1947 provides for payment of compensation also.

It was submitted from the side of the workman that compensation is payable in cases where an undertaking become sick or it has been closed or it is in economic loss. It has not been established that the bank is in economic loss and it is a sick Industry.

My attention was drawn by the Ld. Counsel of the workman to 2000 LLR 523 State of UP and Rajender Singh. The Hon'ble Apex Court ordered for reinstatement with full back wages as the services of the daily wager cleaner who worked for 4 years was dispensed with without following the procedure for retrenchment. In the instant case also no retrenchment compensation has been paid. This case law squarely covers the instant case.

It has been held in 1978 Lab IC 1668 that in case service of a workman is terminated illegally the normal rule is to reinstate him with full back wages.

My attention was further drawn to AIR 2002 SC 1313. The Hon'ble Supreme Court has held that daily wager even if serving for a short period should be reinstated.

It was submitted from the side of the workman that in the instant case Sections 25 F, G of the ID Act are attracted.

In Section 25 of the ID Act it has been provided that if a workman has performed 240 days work and if the work is of continuous and regular nature he should be given pay in lieu of notice and retrenchment compensation.

It has been held by the Hon'ble Apex Court that there is no cessation of service in case provisions of Section 25 F are not complied. In the instant case no compensation has been paid to the workman.

In case a workman has worked for 240 days in a year and the work is of continuous and regular nature he should be paid retrenchment compensation. In case retrenchment compensation is not paid Section 25 F of the ID Act is attracted. There is no cessation of his services. He is deemed continued in service in the eye of law. In case there is breach of Section 25 F the service is continued and reinstatement follows as a natural consequence.

ID Act, 1947 has been enacted to safeguard the interest of the workmen belonging to poor segment of society. It appears that legislature wanted that such workmen should not be harassed unnecessarily so Section 25 F, U, T and Clause 10 of Vth Schedule have been enacted. The objects and reasons of ID Act, 1947 show that the respondent management should not be permitted to indulge in any unfair labour practice. The workmen should not be engaged for years and then they should be removed all of a sudden. There is provision of retrenchment compensation for his removal. Retrenchment compensation is for compensating him otherwise so that he can survive long interregnum of unemployment. In the instant case no retrenchment compensation has been paid.

It was submitted from the side of the management that the Hon'ble Apex Court in 2006 (4) Scale has put down a complete ban on regularization and reinstatement. The Hon'ble Apex Court has held that employment can only be made on the basis of procedure established in that behalf envisaged by the Constitution. Equality of opportunity is the hallmark and the Constitution enshrines affirmative action to ensure that unequals are not treated equals. So public employment should be in terms of constitutional scheme.

It was further submitted that the Constitution Bench Judgment has afforded a right according to which the Government is not precluded from making temporary appointments or engaging workers on daily wages.

The Hon'ble Apex Court has not declared the provisions of ID Act unconstitutional. The Government has got no license to make always appointment of daily wagers and to continue them for life time. Fixed term tenure appointments and temporary appointments cannot be the rule of public employment. At the time of making temporary appointments Articles 14, 16, 21, 23, 226 & 309 are infringed. There is no constitutional mandate that the Government is at liberty to go on giving fixed term appointments for the entire tenure of service of an employee.

No such Article of the Constitution has been pointed out under which the Government or Public Sector units can continue incessantly to give temporary and fixed term appointments again and again. Since fixed term appointments and temporary appointments are not governed by any constitutional scheme, such discrimination will amount to vicious discretion. The Government or Public Sector unit will go on resorting to the method of pick and choose policy and give temporary and adhoc appointments to their favorites and thus the principles of equality enshrined in the constitution will be given a go bye. Such is not the intent of the Hon'ble Apex Court. However, in this judgment the provisions of the ID Act governing the services of the workman have not been declared unconstitutional. Reinstatement is the remedy provided in the ID Act for breach of several provisions

enumerated therein or for breach of service rules provided in various labour welfare legislations.

Section 11 A of the ID Act stipulates that in case the Tribunal is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstance of the case may require. According to this benign provision this Tribunal has the authority to set aside the order of discharge or dismissal and reinstate the workman on the terms and conditions as it thinks fit.

The Hon'ble Apex Court in 2006 (4) Scale has not annulled Section 11 A of the ID Act and the legislature has authorized this Tribunal to set aside dismissal or discharge on its consideration and direct reinstatement. The judgment cited by the management is not applicable in the facts and circumstances of the case.

A three Judges bench of the Hon'ble Apex Court has held in 1993 - II - LLJ that termination of services affects the livelihood of not only of the employee but also of the dependents. So in case of illegal termination of service the workman should be reinstated.

Reinstatement should not be misconceived as regularization. By the order of reinstatement the status quo ante of the workman is restored. He is given back wages in order to compensate him for his illegal disengagement. This is a special remedy provided in ID Act and it has not been annulled and set aside by any judgment of the Hon'ble Apex Court. The provisions of the ID Act are still constitutional and they are to be given effect too.

In case the workman is reinstated with back wages the respondents have every right, after payment of back wages and reinstatement, to retrench him validly following the principles of first come last go so that Section 25, G & H of the ID Act are not violated.

The workman has worked as Peon for almost 6 - 7 years. He has worked continuously for 240 days in every year of his employment. He has not been paid retrenchment compensation or pay in lieu of notice. He shall be deemed to be continued in service by fiction of law. The management is still in existence. It has not become a sick unit, so the workman is entitled to reinstatement in view of the law cited above.

This issue is decided accordingly.

ISSUE NO. 3.

It was submitted by the management that payment of full back wages is not the natural consequence of the

order of discharge or dismissal being set aside. It has been held in (2003) 6 SCC 141 that it is incumbent upon the labour court to decide the quantum of back wages.

It has been further held in this case that payment of back wages having discretionary element involved it is to be dealt with the facts and circumstances of the case. No definite formula can be evolved. It has been further held in this case that payment of back wages in its entirety is the statutory sanction. In (2003) 4 SCC 27 the Hon'ble Apex Court held that in view of delay in raising the dispute and initiating the proceedings back wages need not be allowed. In the instant case there is no delay at least on the part of the workman in raising the dispute.

In 1978 Lab IC 1968 - three Judges Bench of the Hon'ble Apex Court held that payment of full back wages is the normal rule. In case services have been illegally terminated either by dismissal or discharge or retrenchment, in such circumstance the workman is entitled to full back wages except to the extent he was gainfully employed during the enforced idleness. In the instant case the workman was always ready to work but he was not permitted on account of invalid act of the employer.

In 2005 IV AD SC 39 - three Judges Bench of the Hon'ble Apex Court held that reinstatement with full back wages is justified. In this case the workman has performed more than 240 days work and he has been retrenched without payment of compensation and pay in lieu of notice.

It was submitted from the side of the management that reinstatement is not the only remedy. In such cases the workman may be given compensation. Section 11 A of the ID Act, 1947 provides that in case of dismissal or discharge is found illegal reinstatement should be ordered. It has been held in a catena of cases by the Hon'ble Apex Court that reinstatement with full back wages is the fiducial rule. The statute provides for reinstatement. In certain exceptional cases where the undertaking has been closed down or it has become sick there may be order for payment of compensation.

The workman is a manual worker. He must be doing some sort of work off and on. He is not employed in any establishment. He must have been doing some sort of work for his survival and his family members. In the facts and circumstances of the case the workman is entitled to get 25% back wages.

This issue is decided accordingly.

The reference is replied thus :

The management of New Bank of India had employed Sh. Prahalad as a sub-staff in their different branches i.e. Extension Counter, Salwan School, Cannanight Circus, Holiday Home & Janpath etc. from May, 1983 to July, 1990 and thereafter terminated his services w.e.f. 24-07-1990. The termination of his employment is neither just nor legal. The

management is directed to reinstate the workman applicant within two months from the date of the publication of the award along with 25% back wages.

The award is given accordingly.

Date: 24-3-2008

R. N. RAI, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

का.आ. 916.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न.-II, नई दिल्ली के पंचाट (संदर्भ संख्या 29/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2008 को प्राप्त हुआ था।

[सं. एल-12012/359/91-आई आर(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 916.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference No. 29/1992) of the Central Government Industrial Tribunal-cum-Labour Court No. II, New Delhi as shown in the annexure in the industrial dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 1-4-2008.

[No. L-12012/359/91-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

PRESIDING OFFICER: R.N. RAI I.D.NO.29/1992
IN THE MATTER OF:

Sh. Sansar Singh, Daftri,

WZ- 17, Hari Nagar, Nanakpura,
Clock Tower, N. Delhi - 64,

- Claimant

Versus

The Dy. General Manager,
Central Bank of India, Zonal Office,
Link House, 4, Bahadur Shah Zafar Marg,
New Delhi - 110 002.

- Respondents

AWARD

The Ministry of Labour by its letter No. L-12012/359/91-IR (B-II) Central Government Dt.13-03-1992 has referred the following point for adjudication:

The point runs as hereunder:

"Whether the action of the management of Central Bank of India in dismissing the services of Sh. Sansar Singh,

Daftri w.e.f. 23-02-1990 is justified? If not, to what relief the workman is entitled to,"

The case has been remanded by the Hon'ble Delhi High Court vide order dated 21-11-2006. The award of CGIT - I has been set aside by the Hon'ble Delhi High Court and the Tribunal has been directed to consider the matter afresh.

The case of the workman is that he was initially engaged w.e.f. 27-6-1970 and from 12-11-1971 he became a regular member of subordinate staff and was subsequently designated as Daftri in the year 1974.

That in the year 1989 he was served with a charge-sheet on 24-2-1989 and an inquiry was held against him. After proper completion of the inquiry the DA gave a show cause notice for the purposes of punishment.

That the workman was dismissed on 22/23-2-1990 with immediate effect. The workman has not been absent on three occasions. Clause 19.5(f) provides as under:

19.5(f). "habitual doing of any act which amounts to "minor misconduct" as defined below, "habitual" meaning a course of action taken or persisted in notwithstanding that at least on three previous occasions censure or warnings have been administered or an adverse remark has been entered against him."

That the workman has been punished for unauthorized absence by giving censure entry. The bank cannot hold inquiry unduly until three times censure entry has been given.

That the workman at worst committed minor offence by his unauthorized absence and he can be given only censure entry alone.

The case of the management is that the workman was in the habit of remaining absent un-authorisedly. He absented himself from the job without sanctioned leave for about 686 days prior to December, 1986. He absented for 126 days without sanctioned leave un-authorisedly in the year 1987. Show cause notice was issued to him.

That show cause notice was issued to him vide order dated 26-8-1998 and he still remained absent, so a censure entry was imposed on him vide order dated 16-11-1988 under P-19.8 (a) of the BPS.

That a notice dated 27-8-1988 was issued to the workman for his unauthorized absence from 3-4-1988 to 14-5-1988 and from 19-5-1988 to 11-7-1988.

He did not reply to the show cause notice hence a second penalty of censure was imposed upon him vide order dated 16-11-1988. The workman again remained absent from 18-7-1988 to 3-10-1988

The workman was again given show cause notice vide order dated 16-12-1988 for his unauthorized absence. He did not submit written explanation and the third penalty of censure was imposed on him by order dated 6-2-1989. That after giving thrice punishment of censure the workman

did not improve and charge-sheet was served on him on 24-2-1989 and departmental inquiry was held.

That the workman participated in the departmental inquiry and he was assisted by defence representative. Principles of natural justice were followed during the course of inquiry.

That the Inquiry Officer found the workman guilty of the charges of unauthorized habitual absence and the DA after giving show cause notice and considering his representation passed the order of dismissal with immediate effect.

That the AA confirmed the order of the DA. After giving the 3rd censure entry the management held inquiry under Clause 19.5(f) of the BPS.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record and the written brief of both the sides.

It was submitted from the side of the workman that for three acts of habitual absence only minor penalty can be imposed. The management illegally held departmental inquiry and punishment to him under clause 19.5(f) of the BPS was imposed. He was not absent on the previous three occasions and three times censure entry was not given to him.

It was submitted from the side of the management that the workman was given thrice punishment by way of censure. The first was for the period of his absence for 126 days in the year 1987 and he did not give any reply to the said notice, so the penalty of censure was imposed on him on 16-11-1988. The workman again absented from duty from 5-4-1988 to 14-5-1988 and from 19-5-1988 to 11-7-1988 and a censure entry was given to him on 16-11-1988. It transpires from perusal of the record that two censure entries were given to him on 16-11-1988. The first for his 126 days absence in the year 1987 and the second for his absence from 5-4-1988 to 14-5-1988 and 19-5-1988 to 11-7-1988. The punishment of censure was for the second time imposed on him on 16-11-1988. The workman absented from duty from 18-7-1988 to 3-10-1988 and penalty of censure was imposed upon him vide order dated 6-2-1989.

From perusal of the record it also transpires that the workman did not submit explanation to the show cause notice dated 16-11-1988 for his unauthorized absence, so the 3rd penalty of censure was imposed on him. The workman did not turn up after the 3rd penalty of censure, so the charge-sheet was served on him vide order dated 14-2-1989. The workman remained absent after the sure entry dated 6-2-1989 and so for his absence from 6-2-1989 onwards a charge-sheet was served on him vide order dated 24-2-1989.

It further transpires from perusal of the record that it has been provided under clause 19.5(f) of the BPS as under:

19.5(f). "habitual doing of any act which amounts to 'minor misconduct' as defined below, 'habitual' meaning a course of action taken or persisted in notwithstanding that at least on three previous occasions censure or warnings have been administered or an adverse remark has been entered against him."

From perusal of this clause it becomes quite obvious that in case a workman has been given censure or warning at least on three previous occasions, a minor misconduct becomes a grave misconduct and inquiry can be held and it has been provided in clause 9.6 that an employee found guilty of gross misconduct may be dismissed without notice.

The workman in his cross-examination has admitted as under:—

"I was asked by Mr. R.S. Sethi to give an application for the past period in which I remained absent but I did not give the application and he has not told him the period. I do not know whether I was given three times notice regarding the absence from duty before issuing the charge-sheet for the 4th time for gross misconduct."

From the above admission it becomes quite obvious that the workman was so negligent that he did not remember the period of his absence and he wanted Mr. Sethi to tell him the period of his absence. The workman did not give leave application despite the direction of Mr. Sethi. The workman has not denied that he has not been given three times censure entries regarding his absence from duty before the issuing the charge-sheet for the 4th time for gross misconduct.

The workman has also denied in his cross-examination that he was not running a taxi as private business.

The workman has been punished under clause 9.6 of the BPS for gross misconduct. Penalty of censure has been given to him on three occasions and still he did not resume his duties so the management served a charge-sheet. He has been rightly punished for his gross misconduct after three occasions of censure penalty. He was a habitual absentee. He was un-authorisedly absent for 685 days prior to December, 1986 and 126 days in the year 1987 and thereafter he remained un-authorisedly absent till the charge-sheet was served on him. I have perused the inquiry proceedings. The management has not violated the principles of natural justice. The workman has been given sufficient opportunity to cross-examine the witnesses and produce his own defence evidence. The findings of the Inquiry Officer are based on analysis of evidence. The findings are not perverse. The orders of the DA and AA are as per the provisions of the clause 19.6 of the BPS. The workman remained unauthorisedly absent for a long time and he was negligent also in moving leave applications. He remained absent without obtaining leave in advance. It has been held in 2004 (7) SCC 574 by the Hon'ble Supreme

Court that the management was justified in passing the order of dismissal in such circumstances.

The law cited by the workman is not applicable in the facts and circumstances of the case. No interference in the punishment is required in view of the long un-authorized absence.

The reference is replied thus:

The action of the management of Central Bank of India in dismissing the services of Sh. Sansar Singh, Daftri w.e.f. 23-2-1990 is justified. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 24-3-2008

R. N. RAI, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

का.अ. 917.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में विद्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रिम न्यायालय न. II, नई दिल्ली के पंचाट (संदर्भ संख्या 83/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-2008 को प्राप्त हुआ था।

[सं एल-12011/94/2006-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 917.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 83/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the Industrial dispute between the management of Bank of Maharashtra, and their workmen, received by the Central Government on 1-4-2008.

[No. L-12011/94/2006-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

PRESIDING OFFICER: R. N. RAI I.D. NO. 83/2006 IN THE MATTER OF:

Shri G.L. Khurana,
C/o. General Secretary,
Mahabank Karamchari Sangh,
DDA Flats No. 9-B/BG-5-A,
Paschim Vihar,
New Delhi - 110063.

Versus

The Dy. General Manager,
Bank of Maharashtra, Delhi Region,
6/30-31 WEA Ajmal Khan Road,
Karol Bagh, New Delhi - 110 005.

AWARD

The Ministry of Labour by its letter No. L-11012/94/2006 (IR(B-II)) Central Government Dt. 14-1-2006 has referred the following point for adjudication:

The point runs as hereunder:

"Whether the allegation of Mahabank Karamchari Sangh, DDA Flat No. 9-B/B-G/5/A, Paschim Vihar, New Delhi-63 against the Regional Manager, Bank of Maharashtra, Delhi Region, 6/30-31, WEA, Karol Bagh, New Delhi - 110 005 for breach of settlement in Pension Regulation 1993 to payment of pension to Shri G.L. Khurana is just, valid and legal? Whether the pension of the workman has been calculated by the management in accordance with the definition given under Rule 2 and Rule 20 of the Bank of Maharashtra Employees' (Pension) Regulations, 1993? If not, what relief is the disputant concerned entitled to and what directions are necessary in the matter."

The workman applicant has filed claim statement. In the claim statement it has been stated that the provisions of the Rate of Pension as defined in Chapter IV of Bank of Maharashtra (Personnel Department) letter No. AX 1/ST/OSR/24/94 dated 6-4-1994 and Bank of Maharashtra Employee (Pension) Regulation, 1993.

It has been further stated that the basic pension will be fifty per cent of the average emolument i.e. average of pay drawn by an employee during the last 10 months of his services as per Regulation 20 (iv). The period of 10 months for this purpose should be reckoned backwards from the date of retirement as defined in sub-regulation (k) regulation 2.

That the Bank of Maharashtra, Accounts and Audit Deptt. Central Office, Pune (Staff, Pension Cell) has made out work sheet showing last 10 months pay details of Mr. G.L. Khurana from January, 2001 to April, 2000 backwards at the left hand side of the worksheet but the average of emolument drawn is not calculated and not considered for authorizing his actual pension which is as under:—

The total of last 10 months pay drawn - Rs. 107910

The average one month pay Rs. 10791

26 years of qualifying service in the bank.

Basic pension comes to $10791 \times 0.5 \times 26/33$ - Rs. 4251

Commutation 33% of basic pension - Rs. 1437

Age: 61 Factor: 9.81. Communication amount
 $1437 \times 12 \times 9.81$

Rs. 169163.64

Reduce Basic Pension after commutation

Rs. 4251 - 1437

= Rs. 2814

This is the actual pension as per Bank of Maharashtra Employee (Pension Regulation 1993) Clause 20(i) sub regulation (k) of Regulation 2, which should have been paid to Mr. G.L. Khurana at the time of his retirement i.e. w.e.f. 1st February, 2001 but the same was not paid to him.

Bank of Maharashtra, Accounts and Audit Department, Central Office, Pune (Staff Pension Cell) have also calculated on the right hand side on the same worksheet, 10 months old pay drawn from January, 2000 to April, 1999 as under:

The total of 10 months old pay drawn	-Rs. 93,964.44
The average of one month old pay drawn	-Rs. 9,394.64
For 26 years qualifying service, basic pension	-Rs. 3,701.00
Commutation 33% of basic pension	-Rs. 1,233.00
Commutation Amount	-Rs. 1,45,149.00
Reduce pension after commutation	
Ra. 3701 - Ra. 1233	-
	-Rs. 2,468.00

Thus, Mr. G.L. Khurana is paid commutation amounts Rs. 1,45,149.00 as per old rate of Pay Scale causing difference (Rs. 1,69,163.64 - Rs. 1,45,149.00) = Rs. 24,014.64 and also paid pension Rs. 3701.00 PM causing difference in pension (Rs. 4251 - Rs. 3701) = Rs. 550 pm. This difference amount in commutation and in monthly pension has been claimed vide our letter No. GLK/104/2005 dated 18-10-2005 but bank has not taken cognizance of the workman's genuine claim and no reply has been received till today.

We do not understand under which clause of Pension Regulation his old basic pay have been taken into consideration for authorizing his pension and commutation when PF have been deducted on salary drawn till last month of his retirement and bank's contribution of PF have been credited to pension fund. This is really a great harassment to a pensioner.

The bank has now issued a letter No. AX1/AIFM/BEP Revised Order No. 218 dated 20-10-2005 regarding bank employee pension payment scheme. Payment of pension arrears on revision of pay/pension scale to Mr. Khurana Gulshan Lal, PPO No. BOM/2001/6867. We would like to mention that it is not a revision of pay/pension scale. It is well known to them, pay/pension scale of a retired person cannot be revised. This is the actual last ten months pay drawn and reckoned backwards from the date of his retirement as defined in sub-regulation (k) of Regulation 2. This basis pension Rs. 4251 calculated as per 7th BPS on the right hand side of the worksheet attached to their letter quoted above is the actual/correct rate of basic pension and this should have been paid to Mr. G.L. Khurana from the date of his retirement i.e. w.e.f. 1st February, 2001 with prevailing rate of DA.

Since it is not a revision of pay/pension scale, therefore, DA rate cannot be changed. DA rate can only be minimized when major portion of DA is merged with basic pay/pension on revision of pay/pension scale.

The management has filed reply. In the reply it has been stated that Sh. G.L. Khurana, Ex. Special Assistant, working at Service Branch, Delhi retired from the services of the bank on attaining the age of superannuation on 31-1-2001. Shri Khurana was paid the amount of commutation of pension payable to him on 12-6-2001.

Sh. Khurana was entitled for pension under Bank of Maharashtra (Employees) Pension Regulations, 1995.

The Bank of Maharashtra (Employees) Pension Regulations, 1995 is an outcome of BPS with the various unions of Bank Employees and Indian Bank's Association. The said Bank of Maharashtra (Employees) Pension Regulations, 1995 is subject to amendment in view of the industry level settlements between Indian Bank's Association.

The said Bank of Maharashtra (Employees) Pension Regulation, 1995 is subject to amendment in view of the industry level settlements between Indian Bank's Association and various Unions. The disponent union i.e. Mahabank Karamchari Sangh is also a party to the said industry level agreement.

Shri G.L. Khurana was entitled for pensionary benefits on the basis of 7th Industry Level BPS arrived at between Indian Bank's Association and Union on 27-03-2000. The bank has commenced pension to Shri G.L. Khurana on the basis of the said 7th BPS.

That as per the provisions of the said 7th BPS - Pension, in relation to the employee who retires or dies while in service on or after 1st day of April 1995, "Pay" for the purpose of pension shall be aggregate of the "Pay" drawn by the member of the award staff in terms of 6th BPS dated 14-02-1995 and DA thereon calculated of which index will be 1616 in the All India Average Consumer Price Index.

This shall be subject to necessary amendments to be made to the relevant provisions of the Bank Employees Pension Regulation, 1995.

Hence the contentions of Shri Khurana that his Basic Pay as per 7th BPS has to be reckoned for calculating the last 10 month's pay drawn is wrong and incorrect.

The pension regulation was amended based on the BPS and accordingly was published in the Gazette on 14th June, 2003.

Further as per the 8th BPS dated 2-4-2005 the definition of "Pay" was amended and the benefit of the said amended/revised pension is already given to the applicant Sh. K.L. Khurana.

That as per the said 8th BPS/joint note dated 2-6-2005, it is provided for pension at 50% of the last drawn pay in respect of employees who have retired/died on or after 1-5-2005 which is beneficial improvement in the pension scheme in comparison with definition of Pay of the 7th BPS. In view of the amendment of definition of "Pay" the effect of liberalisation in a pension scheme from a prospective date is extended to all the members of pension fund from a prospective date and accordingly pension at 50% of the last drawn pay is paid to the retiree of the period 1-4-1998 to 30-4-2005 w.e.f. 01-05-2005. The said benefit is also extended to Shri G.L. Khurana from 01-05-2005 and arrears on account of same amounting to Rs. 2880/- were paid to him from 1-5-2005 till the date of revision of pension payment orders i.e. 20-10-2005. Hence the demand of Shri G.L. Khurana is already satisfied by the bank.

Thus, according to the contention of the respondent bank and in view of the foregoing the present dispute raised by the applicant is liable to be dismissed with costs.

The answering respondent reserves the right to file a detailed reply and also reserves its right to add to the contents thereof, if necessary at a later stage.

Therefore, in the light of the aforesaid it is humbly prayed that this Hon'ble Tribunal may graciously be pleased to dismiss the instant dispute with costs and or pass such other further orders as it deems fit in the interest of justice, equity and good conscience.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied the averments of the written statement. The management has also denied the averments of the claim statement.

Evidence of both the parties has been taken.

Heard both the parties and perused the papers on the record. It was submitted from the side of the workman that his basic pension has not been calculated according to the 7th BPS but it has been calculated as per the 6th BPS. As per the 7th BPS the total of last 10 months pay drawn is to be calculated and the basic pension should be fixed at Rs. 10,791.

It was further submitted that the actual pension as per the pension regulation 1993 is to be calculated under clause 20 (J) sub-regulation (k) of Regulation No. 2 and it should have been paid to him at the time of retirement w.e.f. 1-2-2001.

It was further submitted that the management has taken the average of 10 months pay drawn for the previous period. The PF has been deducted on salary drawn till last month of retirement of the workman and banks contribution of PF have been credited to the pension fund. The bank has revised pension and has paid proper pension vide revised order No. 288 dated 20-10-2005. The arrears of pension have also been paid w.e.f. 20-10-2005.

That the workman is entitled to get his pension calculated as per 7th BPS and he is entitled to the difference from 1-2-2001 to 19-10-2005.

It was submitted from the side of the bank that the pension of the employees of the Bank of Maharashtra is governed by pension regulation 1995 which is an outcome of 7th BPS. The workman was entitled for pensionary benefits on the basis of 7th BPS arrived at between the India's Bank's Association and Union on 27-3-2000. The bank has commenced pension to Sh. G.L. Khurana on the basis of 7th BPS and he has been paid revised pension from 20-10-2005 on the basis of 8th BPS.

It was submitted that as per provisions of the said 7th BPS, pension in relation to the employees who retires or dies while in service on or after 1st day of April, 1998, pay for the purpose of pension shall be aggregate of the

pay drawn by the member of the award staff in terms of 6th BPS dated 14-2-1995. As such the basic pension of Sh. Khurana was to be calculated in view of the 6th BPS and it has been mentioned in the 7th BPS that pay for the purpose of pension shall be in terms of 6th BPS dated 14-02-1995.

It was further submitted from the side of the management that the settlement dated 29-10-1993 was amended by the 7th BPS and the definition of pay in the 7th BPS was the same as was in the 6th BPS.

From perusal of the records it transpires that the 7th BPS took place on 27-3-2000 and 8th BPS on 2-6-2005. The workman has been made payment of his revised pension in view of the 8th BPS dated 2-6-2005 from May, 2005.

It also transpires from perusal of the record that the settlement dated 29-10-1993 was a draft settlement and it was amended by the 7th BPS and in the 7th BPS the definition of the pay of the 6th BPS has been retained. It also transpires from perusal of Clause 16 of the 7th BPS that the pay for the purpose of pension shall be the aggregate pay drawn by the member in the terms of the 6th BPS dated 14-2-1995. The workman has admitted in his cross-examination that he came to know about pension regulation, 1995 in the year 2001 at the time of superannuation and at the time of getting first pension. The workman wants to get his pension calculated in view of the pension regulation of 1993 but it was replaced by regulation 1995 and the workman admits the existence of the pension regulation of 1995.

The management has rightly calculated the pension of the workman in view of employees pension regulation, 1995. The regulation of 1993 on which the workman claims his pension to be calculated has been amended and modified and replaced by the pension regulation 1995. The pension of the workman has rightly been calculated in view of the amended regulation, 1995. He is not entitled to get pension in view of the draft settlement of 1993. The demand of the workman is not correct.

The reference is replied thus:-

The allegation of Mahabank Karamchari Sangh, DDA Flat No. 9B/B-G/5/A, Paschim Vihar, New Delhi - 63 against the Regional Manager, Bank of Maharashtra, Delhi Region, 6/30-31, WEA, Karol Bagh, New Delhi - 110 005 for breach of settlement in pension Regulation 1993 to payment of pension to Shri G. L. Khurana is neither just nor valid nor legal. The pension of the workman has not been calculated by the management in accordance with the definition given under Rule 2 and Rule 20 of the Bank of Maharashtra Employees' (Pension) Regulations, 1993. The pension of the workman has been rightly calculated under regulation of 1995. The workman is not entitled to any arrears of pension.

The award is given accordingly.

Dated 25-3-2008

R. N. RAI, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

क्र.आ. 918.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट अथॉरिटी ऑफ इंडिया, मलप्पुरम के प्रबंधन के संबंध निषेधकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, ईर्नाकुलम के पंचत (संदर्भ संख्या आई.डी.55-56/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[सं. एल-11012/1/2005-आई आर (एम),

सं. एल-11012/4/2005-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 918.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 55 & 56 of 2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in Industrial Dispute between the employers in relation to the management of Air Port Authority of India, Malappuram and their workmen, which was received by the Central Government on 2-4-2008.

[No. L-11012/1/2005-IR (M),

No. L-11012/4/2005-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, ERNAKULAM**

Present: Sri P.L. Norbert, B.A., LL.B., Presiding Officer
(Wednesday the 21st day of November 2007/30th Karthika 1929)

LD. 55 & 56 OF 2006

(I.D. 55 & 56/2006 (I.D. 2/2005 of Labour Court, Kozhikode)

Workmen: Sri. P.K. Saju, S/o Krishnan,
Palliyalil House, Mukkarakaramba,
Malappuram, Kerala.

By Adv. Sri K.S. Mohammed Hashim.

Management: The Director,
Air port Authority of India, Calicut Airport,
Karippur, Malappuram
By Adv. Sri Harris P.M.

I.D. 56 of 2006 (I.D. 3/2005 of Labour Court, Kozhikode)

Workmen: Smt. K. Reena, D/o. Chathukutty,
Cheruparambail House, Kuzhimanna Post,
Kondody, Malappuram.

By Adv. Sri K.S. Mohammed Hashim

Management: The Director
Air Port Authority of India, Calicut
Airport, Karippur, Malappuram.
By Adv. Sri Harris P.M.

This case coming up for hearing on 16-11-2007, this Tribunal-cum-Labour Court on 21-11-2007 passed the following:

AWARD

These are reference under Section 10 (1) (d) of Industrial Disputes Act. Termination of service is challenged and claim for regularization is raised as per the reference. Since facts, evidence and issues are common, these references are tried jointly and evidence is adduced in I.D. 55/06 as per order in I.A. 49/07.

2. The facts of the case in brief are as follows:—
Claimant Sri. P. K. Saju and Ms. K. Reena contend that they were appointed as Carpenter and Stenographer respectively by Air Port Authority of India Calicut Air Port since 1996. The appointment was made, for the sake of records, through a Labour contractor. Though contractors changed from time to time, the claimants continued. Claimants had worked even during periods when there were no contracts. The claimants were performing the same duties as were done by regular employees. However no benefits were given to them. Instructions regarding work were imparted by the officials of the management. The so-called contractors never supervised the work. During each year they had worked more than 300 days.

3. According to the management the claimants were never engaged by management. There is no employer-employee relationship between the two. They were engaged by the contractor 'A. N. K. George'. The contractor is a necessary party to the dispute. On the basis of an interim order of High court in O.P. they continued in employment. However long the claimants work, no right for regularization accrue to them as they are contract workers. Payment was never made by management directly, except when instructed by the contractor and out of money due to the contractor. No discrimination was shown by the management to the claimants. The claimants are not entitled for any relief as they were never employed by the management, but by the contractor.

4. In the light of the above pleadings the following points arise for consideration:—

1. Are the claimants employees of the management?
2. Whether the termination of service of claimants is legal?
3. Are the claimants entitled for reinstatement and regularization?

The evidence consists of the oral testimony of MW1 and documentary evidence of Exts. W1 to W9 on the side of the claimants and MW1 and Exts. M1 to M3 on the side of management.

5. Points Nos. 1 and 3:—It is an admitted fact, that the two claimants were engaged initially through a labour contractor. According to the claimants though contractors changed, workers continued. However their case is that the contractor was only a smokescreen between Airport Authority and workers. Admittedly no appointment orders or termination orders were issued to the claimants by the management. According to the claimants they were supervised and controlled by the officials of the management and not by the contractor. However evidence is lacking regarding supervision and control. It is for the workers to prove the same. Though MW1 attempted to say that claimant Ms. K. Reena has not worked for the Air port, Ext.W2 Entry Pass will prove otherwise. However the question is whether she too was employed through contractor or directly by the management. As in the case of Mr. P. K. Saju it is an admitted case of Ms. Reena that she too was engaged initially through contractor. However there is no force in the contention of the management that she was attending to the stenography work of contractor inside the premises of Air port. No such evidence is let in by the management. Ext. W4 is the attendance register of workers of May 2000. According to MW1 this was maintained by the contractor and is produced by the claimants. Ext.M1 is the Register of Wages. According to MW1 this is maintained by the contractor. The name of contractor 'A.N.K. George' is shown in the Register as the Establishment. According to the management the Register of Wages is provided by the contractor to the management for the purpose of remitting P.F. amounts of workers (a statutory liability) out of the money due to the contractor. There is no contra evidence. The claimants were not able to show that wages were paid by the management. Ext.W6 judgment in O. P. 22993/2000 was produced to prove that management was paying wages. But O.P. was filed for a direction to Air Port Authority and two contractors to disburse the salary due to the workers including Mr. P.K. Saju and Ms. Reena. The Hon'ble High Court directed respondents 2 to 4 in O.P. to disburse salary within 15 days. The very fact that contractors were made parties in O.P. by the claimants and other workers itself proves that the labourers were working under contractors. Ext.W7 is a lawyer notice sent on behalf of claimants to the management stating that the company was not complying with the direction of Hon'ble High Court in O.P. 12135/2000. There was a direction in O.P. directing the management not to terminate the service of claimants for eight months and the Government to refer the dispute to Industrial Tribunal for adjudication. In the notice it is alleged that still the management had denied employment to the claimants. In the reply notice Ext.W8 the management stated that the claimants were already in service. But it does not mean that they are in the direct service of Air Port Authority. The direction in O.P. was to continue the services of claimants in Air Port, but nothing was stated about their status. On the other hand the dispute with regard to regularization

was left to be decided in a labour forum on a reference. Exts.W1 to W3 are only permits to enter the premises of Air Port for the purpose of work. They too will not show that the claimants are employees of Air Port. Neither continuous work nor permanent vacancy will confer any right on contract workers nor will they alter the character of their appointment. In order to prove that the contract was a camouflage, the claimants have to establish that, though they were initially employed through contractor, they were controlled and supervised by officials of management, wages were paid by management, other service benefits were given by management, their leaves were regulated by management, the disciplinary authority was the management etc. None of the documents produced by the claimants will help them to prove the same. There is nothing on record to show that there is employer-employee relationship between Air Port Authority and Claimants. On the contrary the claimants' own admission that they were taken initially for work in Air Port through contractor, cuts at the very root of their case. The claimants continued to work on the basis of the order in O.P. 12135/2000 till 2006. In the light of the above circumstances I find that the claimants are contract workers and not employees of management.

6. Point No. 2:—Since the claimants are contract labourers, the moment the period of contract comes to an end the work of labourers too comes to an end. It may be true that the claimants must have been working continuously for 240 days and more in an year and they might have been working in permanent vacancies of carpenter and typist. But being contractual workers they don't acquire any right for employment or absorption. It is so held in *Secretary State of Karnataka and others Vs. Uma Devi*, (2006) 4 SCC 1. But it is pointed out by the learned counsel for the claimants that U.P. State Electricity Board Vs. Pooran Chandra Pandey 2007 (4) KLT 513 (SC) a different note is struck by the Hon'ble Supreme court. It is true that in the decision it is observed that Uma Devi's case cannot be applied to a case where regularisation is sought in pursuance of Article 14 of the Constitution. The Supreme Court has said that a decision shall not be mechanically followed without seeing whether it applied to the facts of a particular case. In U.P. Electricity Board case, the facts are that electric supply was carried out by a Co-operative Electric supply Society. The society was later taken over by Electricity Board. The Board had then taken a decision that daily wage employees of the society who are being taken over by the Board will start working in Electricity Board in the same manner and position. On 28-11-1996 the Board decided to regularise the services of its employees working on daily wage basis. The employees of the society claimed regularization on the footing that they too are daily wage earners and on take over by the Board they are entitled to the same status and benefits as those of daily wage earners of the Electricity Board. Hon'ble

Supreme Court held that there is no ground for discriminating one set of employees who are daily wagers (those of society). Since the claim is made on the basis of infraction of Article 14 of the Constitution, the Hon'ble Supreme Court held that in the facts and circumstances of that case, Uma Devi's case had no application. So far as the disputed case is concerned the claimants were contract workers and there is no case for the claimants that they are discriminated in the matter of regularisation. But they claim regularisation because they say that they are in fact employee of management. Hence the decision in U.P. State Electricity Board has no application.

7. Since the claimants are contract workers the Air Port Authority has no obligation to provide continued employment. It is for the contractor to decide. There is no question of terminating the service of claimants by the management as they have not appointed. It follows therefore that the claimants are not entitled to the benefits of Section-25 F of Industrial Disputes Act. On the expiry of the period of contract the service of claimants came to an end automatically. No illegality is committed by management in the matter of employment. Hence I hold that engagement and dis-engagement of claimants is the concern of the contractor and not of the management. The management is no way responsible or liable for non employment.

In the result an award is passed finding that the action of the management, in not allowing claimants Sri P.K. Saju and Ms. K. Reena to continue in service and in not regularising them in service, is legal and justified and the claimants are not entitled for any relief. No cost.

Typed/ corrected and passed by me on this the 21st day of November, 2007.

P. L. NORBERT, Presiding Officer

Appendix

Witness for the workman

WW1 - 14-08-2007 Sri P. K. Saju.

Witness for the Management

MW1 - 08-10-2007 Sri P. S. Devakumar.

Exhibits for the workman

- W1 - Photostat copy Daily permit card issued to Sri Saju, P. K.
- W2 - Photostat copy of Daily Permit Card issued to Smt. Reena, K.
- W3 - Photostat copy of Appointment requisition form.
- W4 - Photostat copy of attendance register sheet of the management for the month of May 2000.

- W5 - Photostat copy of letter dated 20-5-1998 sent by the management to the Labour Officer, Malappuram.
- W6 - Photostat copy of judgment dated 21-08-2000 in O.P. 2939/2000 of the Hon'ble High Court of Kerala.
- W7 - Photostat copy of lawyer notice dated 5-07-2000 issued on behalf of workman to the management.
- W8 - Photostat copy of reply dated 12-07-2000 sent by the management to the counsel for workman.
- W9 - Photostat copy of office Note dated 26-09-2000 sent by the Senior Manager of Calicut Airport to the management.

Exhibits for the management

- M1 - Photostat copy of Register of wages for the period from 1-12-1999 to 31-12-1999.
- M2 - Photostat copy of judgment dated 05-11-2004 in WA 1919/2004 of the Hon'ble High Court of Kerala.
- M3 - Photostat copy of judgment of the Hon'ble Allahabad High Court.

नई दिल्ली, 2 अप्रैल, 2008

क्र.आ. 919.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार औद्योगिक ऑयल कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध निवेशकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अथवा न्यायालय कोलकाता के पंचाद (संघर्ष संख्या 09/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02-04-2008 को प्राप्त हुआ था।

[सं. एन-30011/88/2000-आई. आर. (एन.)

एन. एस. बौरा, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 919.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 09/2003) of Central Government Industrial Tribunal/Labour Court Kolkata now as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 2-4-2008.

[No. L-30011/88/2000-IR(M)]
N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL KOLKATA

Reference No. 09 of 2003

Parties: Employers in relation to the management of
Indian Oil Corporation Ltd.

AND

Their workmen

PRESENT: Mr. Justice C. P. Mishra, Presiding Officer

Appearance:-

On behalf of the : Mr. N.K. Mehta, Advocate

Management : Mr. S. Sengupta, Advocate.

On Behalf of the : None
Workmen

State : West Bengal Industry : Petroleum.

Dated : 12th March, 2008

AWARD

By Order No. L-30011/88/2000-IR(M) dated 31-01-2003 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 (hereinafter to be referred to as the Act) referred the following dispute to this Tribunal for adjudication:

"Whether the industrial dispute raised by India Oil Corporation Ltd. Employees Organisation Haldia Refinery against the management of Indian Oil Corporation Ltd. (Haldia Refinery, District Midnapore) vide letter dated 24th August 2000 (copy enclosed) justified? If so, to What relief the concerned workmen are entitled to?"

2. When the case is called out today, none appears for the workmen nor any step is taken on their behalf to proceed with the matter. Management is represented by its learned Advocate who has stated that none is appearing on behalf of the workmen since long and no useful purpose will be served by keeping the matter pending further. He has accordingly prayed for disposal of the matter by passing a "No Dispute" Award. It appears from the record that none is appearing on behalf of the workmen since 26-03-2006, nor any step is taken on their behalf to proceed with the present reference. It is accordingly clear that the workmen are no longer interested in the present dispute under reference and the management is also in favour of disposal of the reference by passing a "No Dispute" Award.

3. In the circumstances, this Tribunal has no other alternative but to dispose of the present reference by passing a "No Dispute" Award. A "No Dispute" Award is accordingly passed and the reference is disposed of.

C. P. MISHRA, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

क्र.अ. 920.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बाऊला क्रोमाईट माईन ऑफ एक ए सी ओ आर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अम न्यायलय मुबनेस्वर के पंचद (संदर्भ संख्या आई.डी. केस सं. 13/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-04-2008 को प्राप्त हुआ था।

[सं. एल-29012/97/1995-आई.आर.(एम.)

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 920.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I. D. Case No. 13/2001) of Central Government Industrial Tribunal/Labour Court Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Baula Chromite Mine of FACOR and their workman, which was received by the Central Government on 2-4-2008.

[No. L-29012/97/1995-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR

PRESENT:

Shri N. K. R. Mohapatra,
Presiding Officer, C.G. I. T.-cum-Labour Court,
Bhubaneswar.

Tr. Industrial Dispute Case No. 13/2001

Date of Passing Award (Lok Adalat)- 3rd February, 2008

BETWEEN:

The Management of the Executive (Mines),
Ms. FACOR, Laxmi Bhawan, Kuans,
P.O. & Dist. Bhadrak-756 100.

.....1st Party- Management

And

Their Workman, Shri Surendra Singh
represented through the General Secretary,
Chrome Zone Employees Union,
At./Po. Soso, Dist. Dhanurjayapur -756 115

.....2nd Party-Union.

APPEARANCES:

Shri S.K. Routray,
Asst. Manager (Legal)
Shri B.S. Pati
General Secretary.

For the 1st Party-
Management
For the 2nd Party-
Union

AWARD

The following dispute is the outcome of a reference made by the Central Government in their letter No. L-29012/9785-IR(Misc.) dated 13-2-06.

"Whether the action of the Management of Boula Chabrita Mine of FACOR in dismissing Shri Surendra Singh, R.V. Driver justified? If not, to what relief Shri Surendra Singh is entitled?"

2. Today both the parties appeared before the Lok Adalat and by referring to an earlier settlement dated 20-12-2007 between the parties they submitted for an award on compromise. On perusal of the joint petition of compromise (settlement dated 20-12-2007) which forms part of the settlement, it appears that the workman has already received Rs. 45,000 in full and final settlement of all his claims with an undertaking that he would not raise any sort of dispute against the Management pertaining to his service and shall have no lien over his service in future. In view of the above the reference is answered as per the above terms of compromise as reached between the Parties.

3. Reference is answered accordingly.

N. K. R. MOHAPATRA, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

सं. 921.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार औद्योगिक विवादों के प्रत्येक के संबंध निवेदन और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकार, गुवाहाटी के पंचायत (संदर्भ संख्या 1/2005) को उपस्थित करती है, जो केन्द्रीय सरकार को 02-04-2008 को प्राप्त हुआ था।

[सं. एल-30012/1/2005-आई. आर. (एम.)

एन. एस. बोर, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 921.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1/2005) of Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Oil India Ltd. and their workman, which was received by the Central Government on 2-4-2005.

[No. L-30012/1/2005-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
GUWAHATI

Present:

Sri H. A. Hazarika,
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

In the matter of an Industrial Dispute between:

The Management of Oil India Ltd. Naranji, Guwahati.

Vs

Their Workman, Sri Sekhar Rudra.

ADVOCATES

Mr. S. N. Sarma : Senior Advocate, for the Management

Mr. N. Sarma : Advocate.

Mr. A. Dasgupta : Advocate, for the Workman.

Mr. S. Chakrabarty : Advocate.

Ref. No. 01 of 2005

Date of Award : 18-3-08

AWARD

1. The Government of India, Ministry of Labour, New Delhi vide its Notification No. L-30012/1/2005-IR(M) dated 27/04/2005 referred this Industrial Dispute arose between the management of Oil India Limited, Naranji and their Workman Sri Sekhar Rudra, in exercise of power conferred by Clause (d) of Sub-Section (1) and Sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) for adjudication on the basis of the following Schedule:

SCHEDULE

"Whether the action of the management of Oil India Ltd., Pipeline HQ, Guwahati in dismissing the service of Sri Sekhar Rudra w. e. f. 22/1/2005 is justified? If not, what relief Sri Rudra is entitled to and from when?"

2. This Award is arising out of the preliminary issue framed on 12.6.06. The issue framed is as given herein after.

"Whether the domestic enquiry conducted by the Management is fair or not?"

3. The preliminary issue was framed on hearing of learned Advocates of both sides. The management submitted a petition on 16.3.06. The brief caption of the petition is that the management conducted domestic enquiry which was free, fair and based on Principle of Natural Justice and the opportunities were given to the workman. It was also prayed that the preliminary enquiry may be framed and decided at first and if the preliminary issue is decided against the management the management may be allowed to contest the Reference on merits. The point of preliminary enquiry was raised by the management in their W.S. also. The workman side agitated that against the preliminary issue by filing a written petition on 6.4.06 that for the right of framing the preliminary issue the Management has not exercise the same in time and matter is already fixed for evidence. Hence, the prayer for framing preliminary issue may be rejected. In my order dated 12.6.06 it has been reflected that at this stage evidence was not started and as regards preliminary issue it was raised in the prayer portion of the W.S. filed by the Management.

4. The brief contention of the Management that the domestic enquiry was held against the workman Sri Sekhar Rudra on the following charge.... that a transfer order was issued to the workman vide letter No. PLIR/16-2/661 dated 17-7-98. According to the transfer order the workman was transferred to Dumar and released on 23-7-98 but the transfer order was not complied and disobeyed wilfully. For non-compliance of transfer order and subsequent to the same some written as well as oral intimations were given to the workman. Further the workman remained absent from his duties unauthorisedly and without permission or leave from the Superintending Engineer. That non-compliance of the orders it was treated as gross misconduct u/s 21.1.1, 21.1.5, 21.1.7 and 21.1.9 of the Standing Orders.

5. At this stage of preliminary enquiry the Management examined Sri Rajib Goswami, Chief Engineer, Oil India Ltd. (Pipe Line) and he is cross examined by the learned Advocate of the workman Mr. A. Dasgupta. The workman Sri Sekhar Rudra examined himself as witness and he is also cross-examined by learned Senior Advocate Sri S. N. Sarma for the Management. Sri Rajib Goswami deposed that he made the domestic enquiry against the workman Sri Sekhar Rudra. He started domestic enquiry on 14-11-02. At the prayer of the workman the enquiry was adjourned on 14-11-02 and on 4-12-02 in presence of the workman the Enquiry Officer explained the procedure of the enquiry. The workman was allowed to take help of his co-worker and he availed the same. He was also told to examine defence witness and to cross examine the Management witness. The allegation against the workman was that he defied to follow the transfer order issued to the workman. Moreover, the workman was also charged for remaining absent from duty from July, 1998 to May, 1999. The workman was furnished with all the documents appertaining to the enquiry. Ext. 2 is the transfer order, Ext. 3 advice and release order, Ext. 4 a letter issued to the workman to join at the place of his transfer. Vide Ext. 5 the workman was intimated the date, time and venue of the enquiry. The workman took the help of his co-worker Mr. P. K. Medhi for his defence. The management examined various documents. Sri S. N. Mishra was the Management representative who exhibited the documents. The workman did not examine any witness in his defence. The Enquiry Officer recorded the statement of the workman. Ext. 7 is the Enquiry Proceeding, Ext. 7(1) is the signature of the Enquiry Officer, Ext. 7(2) is the signature of the Management representative and Ext. 7(3) is the signature of the workman, Sekhar Rudra. Ext. 8 is the report of the E.O. and Ext. 8(1) is signature of the E.O. In cross examination Sri Rajib Goswami, E.O. replied that during the course of enquiry no witness was examined by the Management. Managing representative was the Presenting Officer who exhibited the documents. In the enquiry proceeding it is reflected "Quarries put by you can not be in the form of cross examination but only to seek clarification on the documents

submitted by the Management Representative as Exhibits". The workman wanted to cross examine the Management Representative. E.O. provided opportunities for seeking clarification on exhibited document but not allowed the workman for cross examination. The Enquiry Officer relied only on the exhibited documents at the time of consideration of his report. Once the workman forgo the promotion. He denied that he has not considered the documents submitted by the workman.

6. The workman in support of his case against the departmental proceeding deposed that he was transferred to PS-9 Dumar in Bihar and he was released from Guwahati on 21-7-98 to join at Dumar but at that time only one sanctioned post of Supervising Assistant Grade-IX was holding by Sri Padmeswar Kalita. After issuance of the charge sheet, Padmeswar Kalita was transferred to Guwahati and one Ratul Saikia was transferred to PS 9, Dumar. Thus he was not in a position either to join at Dumar or Guwahati unless a fresh order of his posting was issued. A copy of enquiry report was furnished to him against which he preferred a representation on 23.6.2003 but the Disciplinary Authority failed to consider his contention reflected in his representation dated 23.6.2003 and passed the dismissal order on 21-7-3. Against the dismissal order he preferred appeal before the Appellate Authority against the order of dismissal under Section 23.1 of the certified Standing Orders of Oil India Ltd. The Appellate Authority dismissed his appeal. In his cross examination he deposed at the time of dismissal the workman was working in Grade-VIII and that post was transferable. He was transferred to Dumar in Bihar from Guwahati Ext. 2 is the transfer order. He did not join at Dumar in Bihar and he was released from Guwahati on 21-7-98. His transfer order was not stayed by any Court. Against Show Cause Notice he submitted his reply. He was present at the time of enquiry against him. The Management did not examine their witnesses. During the course of enquiry the Management exhibited some documents including his release order. He signed almost all the papers of enquiry proceeding except few papers when he was absent. He submitted his defence case in writing. Thereafter he received the dismissal letter. Along with him one Rangpi was transferred and he does not know whether Rangpi was complied with the transferred order or not. He preferred two Writ Petitions wherein he has not mentioned that there is no vacancy at Dumar. He did not comply the transfer order for 4 years from 1998. They have got a Standing Order, an unauthorized absent is a major misconduct under that Standing Order. The Management did not inform him about the transfer and release of other workmen. He signed the W.S. after going through it. He denied that the Management conducted the enquiry fairly.

7. Heard the argument submitted by learned Senior Advocate Sri S.N. Sarma with Sri N. Sarma, Advocate for the Management. Also heard argument submitted by learned Advocates Sri A. Dasgupta and Sri S. Chakrabarty

for the workman. Perused the exhibited documents. Perused the following Case Laws submitted by the Management as well as by the Workman.

By the Management.

- (1) (1997) 4 Supreme Court Cases 565,

Tara Chand Vyas Vrs Chairman & Disciplinary Authority & Ors.

- (2) (2006) 5 Supreme Court Cases 137,
North Eastern Karnataka Ri Corps.
Vrs Ashappa.

- (3) (2006) 6 Supreme Court Cases 187,

Divisional Controller, N.E.K.R.T.C. Vrs
H. Amarash.

By the Workman.

[AIR 1963 SC 1914-(1963) 2 LLJ 36]

Sir Enamel and Stamping Works Ltd. Vrs
The Workman.

8. On careful scrutiny of the documents and evidence in the record, admittedly there was a domestic enquiry enquired by Sri Rajib Goswami. At the time of giving evidence Sri Rajib Goswami was holding the Post of Chief Engineer (Pipe Line Division). He issued notice which is admittedly received by the workman. The enquiry was proposed to start on 14-11-02 and on the date fixed it was adjourned. The enquiry was started in presence of the workman. The procedure of enquiry was explained to the workman and he was allowed to take assistance of co-worker which he availed by engaging Sri P.K. Medhi for help of his defence. The management representative Mr. S. N. Mishra submitted the documents at the time of enquiry. The delinquent workman was allowed to examine witnesses from his end and also allowed to make queries in relation to documents exhibited at Departmental Proceeding. Of course, the workman side raised an objection that he was not allowed to cross examine in the way the workman desires to allow only "queries put by you can not be in the form of cross examination but only to seek clarification on the documents submitted by the management representative as exhibited". What I find over all the Enquiry Officer during the course of domestic enquiry allowed the workman for necessary opportunities for his defence.

9. On careful scrutiny of the evidence I find admittedly Sri Sekhar Rudra an employee under Management and posted at Guwahati was transferred to Dumar, Bihar. Accordingly he was released from Guwahati

Office on 21-7-98. But after release admittedly, the workman concerned did not join in the place of posting at Dumar in Bihar. It is also admitted fact that the post held by the workman was a transferable post. Admittedly and categorically the workman stated in cross examination part "I did not join at Dumar in Bihar". My transfer was not stayed by any Court. It is also admitted by the workman concerned in his cross examination part of evidence "that I did not comply the transfer order for four years from 1998." It is also admitted that there is a Standing Order unauthorized absent is a major misconduct.

10. On perusal of the documents exhibited, Written Statements and evidence in the record I am fully convinced that the workman concerned wilfully disobeyed the transfer order and committed gross misconduct. A person in a government or any department must be disciplined. He must maintain the decorum of the office and also obedient. He should not be desperate and neglect to carry out the Office orders. What I find the workman desperately defied the legal transfer order and remained absent for long period. Even as I feel in his cross examination that he has not visited his place of posting, Dumar in Bihar.

11. Under the above facts and circumstances, what I find the Management has committed no mistake in passing the order of dismissal against the workman concerned. Perused the Case Laws. The Case Laws submitted by the management is befitting with the instant case. The Case Laws submitted by the workman is not befitting with the instant case of the workman. I also find full opportunity was given by the Enquiry Officer to the workman during the course of domestic enquiry. Domestic enquiry was properly done in the present circumstances of the case. The workman was given full opportunity in respect of disputing the exhibited documents. But when the basic things are admitted there is left nothing to show that the documents are not genuine. Under the above facts and circumstances, what I find management has rightly dismissed the workman through a proper and fair D.P. As regards quantum of punishment I have thoroughly and again scrutinized the record. In such a gross misconduct of carrying Official Orders and remained absent from duties the best punishment is removal a person from the service. I do not like to interfere the quantum of punishment made by the Disciplinary Authority or the management concerned. He is rightly dismissed and this punishment is proper.

12. Under the above facts and circumstances, the Departmental Proceeding and the decision of dismissal is rightly taken and there is nothing to be interfered.

13. Prepared the Award accordingly and send it to the Government as per procedure immediately.

H. A. HAZARIKA, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

AWARD

का.सं. 922.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ग्राम न्यायालय ईर्नाकुलम के पंचाट (संदर्भ संख्या आई. डी. 37/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[फा. सं. एल-30011/75/2002-आईआर(एम.)]

एन.एस. बोरा, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 922.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I. D. 37/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Petroleum Corporation Ltd. and their workman, which was received by the Central Government on 2-4-2008.

[F. No. L-30011/75/2002-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri. P. L. Norbert, B.A., LL.B., Presiding Officer
(Tuesday, the 4th day of March 2008/14th Phaiguna 1929)

I. D. 37/2006

(I.D. 10/2004 of Labour Court, Ernakulam)

Union

The President,
Bharath Petroleum Corporation General Workers' Union, Head Office, Labour Port, Kalabhavan Road, Kochi - 682 018.

By Adv. A. X. Varghese.

Management

The Senior Installation Manager, Bharat Petroleum Corporation Ltd., Dr. Salim Ali Road, Kochi - 682 014.

By Adv. M/s. Menon and Pai.

This case coming up for bearing on 26-02-2008, this Tribunal cum-Labour Court on 04-03-2008 passed the following.

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is:

"Whether the industrial dispute raised by Bharath Petroleum Corporation General Workers Union against the management of Bharath Petroleum Corporation Ltd. over not regularisation of contract workmen justified? If so, to what relief the concerned workmen are entitled?"

2. Facts of the case in brief are as follows:- The claimant union representing 16 workers content that they were engaged by contractors for work in the management company Bharath Petroleum Corporation since 1976. They have been doing the work of cleaning of petrol, diesel, kerosene tanks and drainage, sweeping of the premises, cutting grass, painting and maintenance of buildings and construction of roads. Though the contractors changed from time to time the workers remained the same throughout. The work is perennial in nature. Without the workers the company cannot function. The work is done under the supervision and control of officers of the company. Wages are paid by the company. The workers have been requesting for regularisation for long. But company is adamant and have not considered their request. They have been working for the last more than 18 years. The Central Government issued a notification on 9-12-1996 prohibiting contract labour w.e.f. 1-3-97 with respect to the work of sweeping, cleaning, dusting and watching of buildings. The worker are entitled to be regularised.

3. According to the management there is no industrial dispute for adjudication. The workers are contract labourers and there is no master and servant relationship between workers and company. Therefore the workers are incompetent to raise an industrial dispute against the company. The court has no jurisdiction to adjudicate the dispute referred. The contract workers were engaged by the company only intermittently and not continuously. Their work is not of a perennial nature. The contractors are deciding who should be engaged in the work. There is no supervision and control of the workers by the officials of the company. It is not correct to say that the Central Government has issued notification dated 9-12-1996 prohibiting employment of contract labour w.e.f. 1-3-97. There was a notification. But it was struck down by the Hon'ble Supreme court in judgment in Steel Authority of India case. The workers have not acquired any right for regularisation in the company.

4. In the light of the above pleadings the following points arise for consideration:

1. Has the court jurisdiction to adjudicate the dispute?
2. Is the contract sham or genuine?
3. Are the workers entitled for regularisation?

The evidence consists of the oral testimony of MW1 and documentary evidence of Est-W1 on the side of the union and MW1 and MW2 on the side of management.

5. Points Nos. 1 & 2: The management challenges the jurisdiction of this court to adjudicate the dispute. According to the management the workers whose cause is espoused by the union are only contract workers. They do not fall within the definition of 'workman' under Section 2(s) of Industrial Disputes Act. The company has not employed them. Such a dispute can be raised only by the regular employees of the company and not by contract workers. There is also no industrial dispute as defined in Section 2(k) of Industrial Disputes Act as there is no employer-employee relationship between company and the workers. Lastly, it is contended that unless the contract system is abolished by the appropriate Government by notification as per Section 10 of Contract Labour (Regulation and Abolition) Act no demand can be made for regularisation and no dispute can be raised by contract workers. There is a prayer in the written statement to consider the question of jurisdiction of the court as a preliminary issue. But to decide that question it is necessary to consider whether the contract is sham or genuine. It is held by the Hon'ble Supreme court in Steel Authority of India Ltd & Others V. National Union Waterfront Workers and Others, 2001-II-L.L.J. 1087 that the court has to consider first whether the contract is sham or genuine in order to decide whether a notification U/S 10 of CLRA Act is required or not to claim regularisation in service. If the contract is sham even without prohibition of the contract system by notification, dispute can be raised and abolition can be claimed by contract workers. On the other hand if the contract is found to be genuine then the contract system has to be got abolished by approaching the concerned government. Therefore it is necessary to decide the nature of the contract first for which evidence has to be looked into. This compelled the State Labour court to defer the issue to the final stage.

6. It is relevant to note that in the claim statement the union repeatedly say that the 16 workers in question were engaged in 1976 by contractors and they were working continuously under different contractors for the last more than 10 years. Even contractors' names are mentioned in paragraph (2) page (2) of the claim statement. But in the written statement it is pleaded that the contract is sham or a conspiracy to deprive the workers of the benefits of different labour legislations. However the learned counsel appearing for the union submits that though the word 'sham' is not used, there is pleading with regard to the ingredients of a sham contract. It is true that the claim statement contains the statements that the work is personal in nature, that the work is supervised and controlled by the officers of the company and payment is made by the company. But the main question is whether that pleading is sufficient to draw the attention of the opposite party and

to afford them an opportunity to meet the contention. According to the learned counsel for the management there is no specific pleading in the claim statement that the contract is sham. The management was not able to meet that contention with enough pleadings in written statement. The learned counsel relying on the case law submits that proof without pleading cannot be looked into. In N.D. Mazumdar and Company V. State of West Bengal 1999(1) L.L.J. 766 it is observed by Calcutta High Court that if a point is not pleaded in the written statement, the Tribunal would be right in not allowing the party to rely on the said point and argue on it before it.

In Oriental Insurance Company Limited v. T. Pichayanti 1998(2) L.L.J. 901 it is observed by Madras High Court that normally the rule is that in the absence of any pleading, any amount of oral evidence will not be of any use at all since such oral evidence without pleading is likely to take the other party affected by surprise.

The learned counsel also refers to Steel Authority of India Limited V. Union of India and others 2001-II-L.L.J. 1037. Paragraph 26 is as follows:

"The workman which before the Labour Court in writ proceedings was represented by the union. A trade union registered under the Trade Union Act is entitled to espouse the cause of the workman. A definite stand was taken by the employees that they had been working under the contractors. If would, then, in our opinion, not have been enough to take a contract being sham and contend that they were not the workmen of the principal employer. To take such a contention, a plea is impermissible in law. Such a contention, if accepted, would not be a valid plea, in our opinion, should not be allowed to be raised even in an industrial adjudication. Questions of law principles of estoppel, waiver and acquiescence are applicable to an industrial adjudication."

Therefore it is contended that the claim at the time of evidence that contract is sham, cannot be permitted for want of pleadings. The nature of contract is pivotal in deciding the dispute. Nothing prevented the union in stating that the contract is not genuine but only a ruse to deny benefits to workers. On the other hand it is repeatedly stated in claim statement that the workers are contract labourers. If they are contract labourers the contract need not be sham or genuine. But the person who disputes the contract should specifically challenge it. It is important to note that there is equally no pleading that the claimant of the company in engaging contract workers is to deprive them of the benefits of labour legislation.

7. Apart from absence of pleadings, even going by the material on record the case of workers is not proved. The only document that the union has produced is Est-W1 which is a judgment in O.P. 17297 of 1997 of Hon'ble High Court of Kerala. There these workers wanted the

notification issued by Central Government on 09-12-1976 prohibiting contract labour in respect of certain categories of work to be enforced. But the Hon'ble High Court observed that the prohibition order was regarding sweeping, cleaning, dusting and watching of buildings and whether the workers fall under such categories is a question of fact to be decided on the basis of evidence to be adduced before proper forum and not in a writ petition. Ext.W1 does not support the case of the union one way or other regarding the nature of the contract. Apart from Ext.W1 the oral testimony of WW1 who is a worker as well as an office bearer of union alone is there. He also admits that the workers were working under contractors and they were paid by contractors (cross examination page-2). Though he says that successive contractors were engaging the same set of workers continuously, the union has not been able to produce any record or examine any of the contractors to prove that it was at the instance of the company that the same set of workers were continuously employed by successive contractors. On the other hand MW1 and MW2 the management witnesses say that the contract system is not abolished and contractors alone were the choosers of workers. The learned counsel for the management points out that though there was a notification referred supra it is set aside by the judgment in S.A.I.L. case. It is to be noted that even assuming that prohibition notification made mention in Ext.W1 judgment is in force it relates only to sweeping, cleaning, dusting and watching of buildings alone. It does not refer to cleaning of petrol and diesel tanks, grass cutting and other maintenance work claimed by the workers. MW1 says that the contractors are supervised by the company. He says that the company is allotting work to contractors and company is supervising such work (page-8). But he does not know whether according to the change of contractors the workers are changed. He admits that the work is perennial in nature. However the company has to see whether the work allotted to the contractors is done according to the specifications of the company which can be ensured only if officers of the company supervise the work, but not the workers. If the workers are supervised, it would mean that they may be in fact workers of the company. Yet it is only a piece of evidence to prove the status of workers. MW2 the Sr. Management of the company says that the company supervises the contractors and payment is made by the contractor. He does not admit that the work is perennial in nature. However the stand of MW2 regarding perennial nature of work does not appear to be correct. Cleaning of tanks, cutting of grass etc. are recurring type of work and hence perennial. But union was not able to prove with sufficient evidence that the workers were engaged continuously by different contractors at the instance of the company. The contractors are free to engage anyone as workers. According to their discretion they may prefer the ex contract workers considering their experience in the same category of work. Therefore the successive

contractors may sometimes engage the same set of workers. Therefore it cannot be presumed that the contract is only a smoke screen between the company and the workers. The wages are paid admittedly by the contractors and not by the company. Other than a sweeping statement of WW1 that supervision is done by the officials of the company there is no specific statement as to who was, or who were the officers who were supervising and controlling the workers. No adequate evidence is adduced to support the contention regarding and supervision control. The union has no case that any disciplinary action was taken by the company against any of the workers. Admittedly no appointment orders were issued to the workers nor were they terminated by the company by any written order. No records were called for from the company to prove that the company is the real employer of the workers. In the absence of such evidence regarding the nature of the employment and the absence of specific pleadings regarding the nature of contract it is not possible to accept the contention of union that the contract is not genuine.

If so, without getting the contract system abolished by notification under Section 10 of C.L.R.A. Act the union cannot raise an industrial dispute against the company. Points are answered accordingly.

8. Point No.3:- Though this aspect need not be considered in view of the fact that workers cannot raise an industrial dispute, for the sake of completeness I would deal with it. I have found that the contract is genuine. If so the contract workers do not acquire any kind of right for absorption in the management company. Continuous work for 240 days or more in an year will not confer any right on them for employment in the company. The decision in Oil & Natural Gas Corporation Limited V. Engineering Mazdoor Sangh, (2007) 1 Supreme Court Cases 250 relied by the learned counsel for union is not applicable as it relates to casual/temporary workers and not contract workers. It is held in Secretary, State of Karnataka and others V. Uma Devi and others, 2006 (109) FLR 826, paragraph 38 as follows:

"When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise

while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a relief of being made permanent in the post".

In view of the above circumstances I find that the workers are not entitled for absorption in the management company even if the industrial dispute lie before this court.

In the result, an award is passed finding that the workers are not entitled for regularisation and the demand of the union is not legal and justified. The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 4th day of March, 2008.

P. L. NORBERT, Presiding Officer

Appendix

Witness for the Union

WW1 - 26-02-2007 - Sri. Anelo De Silva.

Witness for the Management

MW1 - 19-06-2007 - Sri. Sadanandan K. Menon.

MW2 - 17-12-2007 - Sri. Kurian Parambi.

Exhibits for the Union

W1 - 06-08-2001 - Certified copy of judgment in OP 17797/97 of the Hon'ble High Court of Kerala.

Exhibits for the Management - Nil

नई दिल्ली, 2 अप्रैल, 2008

क्र.आ. 923.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पै. के. जे. एस. अहलुवालिया, नवगाँव आयरन माईन्स के प्रबंधक के संबद्ध निखोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथवा न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या आई. डी. केस सं.-8/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[सं. एस-26011/11/2003-आईआर (एम.)]

एम. एस. बोरा, हेड ऑफिसर

New Delhi, the 2nd April, 2008

S.O. 923.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I. D. Case No. 8/2004) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the

Annexure in the Industrial Dispute between the employers in relation to the management of M/s. K. J. S. Ahluwalia Noagaon Iron Mines and their workmen, which was received by the Central Government on 2-4-2008.

[No. L-26011/11/2003-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT BHUBANESWAR

PRESENT: Shri N. K. R. Mohapatra, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 8/2004

Date of Passing Award (Lok Adalat)- 3rd February
2008

BETWEEN:

The Management of —1st Party-Management
M/s. K. J. S. Ahluwalia,
Mines Owner,
Noagaon Iron Mines,
At/Po. Barbil, Dist. Keonjhar,
Orissa.

AND

Their Workmen, —2nd Party-Union.
represented through the
General Secretary,
North Orissa Workers Union,
Head Office, Orampara,
At/Po. Rourkela,
Dist. Sundargarh-769012.

APPEARANCES:

Shri S.K. Rounray, —For the 1st Party
Asst. Manager (Legal) Management.
Shri B.S. Pati. —For the 2nd Party
General Secretary. Union

AWARD

The following dispute is the outcome of a reference made by the Central Government in their letter No. L-26011/11/2003-IR (M), dated 20-2-2004.

"Whether the action of the Management of M/s. K. J. S. Ahluwalia, Noagaon Iron Mines, At/Po. Barbil, Dist. Keonjhar, by terminating the services of Sh. Panu Munda, S/o. Dubrai Munda, Smt. Sumai Munda, W/o. Panu Munda and Smt. Mundul Munda W/o. Gangu Munda, Miners with effect from 31-3-2003 without following the provisions of I.D. Act, and without observing the principle of natural justice is justified? If not, what relief the workmen are entitled to?"

2. While the matter was sub-judice before the Tribunal the same was placed before the Lok Adalat held

138761/2008-15

on 3-2-2008. The parties to the dispute filed a joint petition of compromise (settlement dated 30-1-2008) whereunder the Management has agreed to take back the disputants into service with 50% of their back wages for the idle period from 1-3-2003 till 30-1-2008 keeping their earlier service conditions un-challenged. In view of the above the reference is answered accordingly with a direction to the Management to reinstate the workmen in their original post forthwith with the above conditions as narrated in the terms of compromise which forms part of the settlement.

3. Reference is answered accordingly.

N. K. R. MOHAPATRA, Presiding Officer

नई दिल्ली, 2 अप्रैल, 2008

का.आ. 924.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बाऊला क्रोमाईट माईन्स ऑफ मै. एफएसीओआर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुवनेश्वर के पंचाट (संदर्भ संख्या आई. डी. केस सं. 18/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-2008 को प्राप्त हुआ था।

[सं. एल-29012/25/1996-आईआर (एम.)]

एन. एस. बोर, डेस्क अधिकारी

New Delhi, the 2nd April, 2008

S.O. 924.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D. Case No. 18/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Boula Chromite Mines of M/s FACOR and their workman, which was received by the Central Government on 2-4-2008.

[F. No. L-29012/25/1996-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present: Shri N.K.R. Mohapatra, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 18/2001

Date of Passive Award (Lok Adalat)- 3rd February
2008

Between:

The Management of the Executive (Mines),
FACOR, Laxmi Bhaan, Kuans, Dist. Bhadrak.

... 1st Party-Management

And

Their Workman, Shri R. C. Behera
represented through the General
Secretary, Chrome Zone Employees
Union, Boula Chromite Mines
At/Po. Soso, Dist. Keonjhar.

....2nd Party/Union.

Appearances:

Shri A. K. Mishra,
Manager (Law)

For the 1st Party
Management.

Shri A. K. Rout,
General Secretary.

For the 2nd Party
Union

AWARD

The following dispute is the outcome of a reference made by the Central Government in their letter No. L-29012/25/96-IR (Mise), dated 17-9-1996.

"Whether the action of the Management of Boula Chromite Mines of M/s. FACOR in terminating the services of Shri R. C. Behera, Ex-Blaster with effect from 18-9-1995 is justified? If not what relief the workman is entitled to?"

2. Today by making their personal appearance before the Lok Adalat both the parties pleaded to have already resolved the dispute outside the court on 20-12-2007 and by referring to their said settlement wanted the Tribunal to pass an award on compromise. On perusal of the joint compromise petition which forms part of the award it is gathered that the workman having received Rs. 45,000/- in lieu of his full and final settlement has agreed not to raise any sort of dispute against the Management pertaining to his service henceforth and shall have no lien over his service in future.

3. In view of the above settlement between the parties the reference is answered accordingly.

N.K.R. MOHAPATRA, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2008

का.आ. 925.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट (संदर्भ संख्या 69/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-4-2008 को प्राप्त हुआ था।

[सं. एल-22012/350/2004-आईआर (सीएम-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 4th April, 2008

S.O. 925.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref.69/2005 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the industrial dispute

between the management of M/s. Eastern Coalfields Limited and their workman, received by the Central Government on 04-04-2008.

[No. L-22012/350/2004-IR(CM-II)]

AJAYKUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL, CUM LABOUR COURT ASANSOL.

REFERENCE No. 69 of 2005.

Present: Sri Md. Sarfaraz Khan,
Presiding Officer.

Parties: Agent, Bankola Colliery, Under
Bankola Area, P.O. Ukhra,
Burdwan.

Via

General Secretary, Koyla Mazdoor Congress, Gorai
Mansion, G.T. Road, Asansol, Burdwan.

REPRESENTATIVES:

For the Applicant: Shri S.K. Pandey, General
Secretary

For the Opposite Party: None.

Industry : Coal State: West Bengal
Dated the 28-1-2008

ORDER

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its letter No. L-22012/350/2004IR(CM-II) dated 21-7-2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Bankola Colliery under Bankola Area M/s Eastern Coalfields Limited in dismissing Sh. Gorelal Dasadh, Security Guard from Services U.M. No. 693307 from service w.e.f. 24-4-01 is legal and justified? If not, to what relief the workman is entitled?

On having received the Order No. L-22012/350/2004-IR(CM-II) dated 21-7-2005 of the above mentioned reference from the Govt. of India, Ministry of Labour, New Delhi, for adjudication of the dispute, a reference case No. 69 of 2005 was registered on 17-8-2005 and accordingly an order to that effect was passed to issue notice through the registered post to the parties concerned directing them to appear in the Court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the

said order notices by the registered post were sent to the parties concerned. Sri S.K. Pandey, General Secretary of the Union appeared in the Court to represent the union. The written statement was filed on behalf of the union.

In brief compass the case of the union as set forth in its written statement is that Sri Gorelal Dasadh was the permanent employee of the company as security guard at Bankola Colliery, Bankola Area, M/s. Eastern Coalfields Limited. The workman concerned was charge sheeted for alleged theft, fraud, dishonesty, in connection with the employers business or property vide charge sheet No. BK/PD/15(10)/285, dated 29-1-2001.

The main case of the union is that the workman performed his duty in 1st shift of 28-1-2001 as per the records of the management. An incident alleged theft of a piece of rasi was reported. The workman who was on duty at the time of alleged incident was set free while Sri Dasadh who was not in duty in the said shift was charge sheeted by the management. The said workman Sri Dasadh who was ultimately dismissed from the service of the company holding ex-parte enquiry, ignoring the principles of natural justice. It is really said to be strange that the management had taken such type of harsh decision on the basis of hearsay evidence. In the light of the above mentioned fact it is said to be absolutely clear that the dismissal of Sri Gorelal Dasadh from the service of the company is illegal and unjustified. The workman concerned is since then out of job and his whole family is on the verge of starvation. The union has sought relief for the reinstatement of the workman concerned in the service with the payment of full back wages for the period from the date of dismissal with all the consequential benefits.

On the other hand it is clear from the perusal of the record that the notices by the registered post was sent to the Agent, Bankola Colliery, Bankola Area, P.O. Ukhra, Distt. Burdwan which was received and endorsement to that effect was made on the A/D by putting the signature with the date of the receipt of the notice. Since the date of the receipt of the notice several repeated adjournments were given for the appearance of the management but to no effect, within delay the reference proceeded for ex-parte hearing.

From the perusal of the record it transpires that the union has filed the list of certain documents consisting copy of the office order to delete the name of the workman concerned from the service of the company, copy of the dismissal order, copy of the findings, copy of the enquiry report, copy of the enquiry proceeding and the copy of the charge sheet. It is clear from these documents that the (enquiry proceeding was conducted ex-parte in absence of the workman concerned. There is no even chit of paper to show that the notice of enquiry proceeding were sent to the workman concerned. There is no proof of this fact that the workman concerned had personally receive the notice

of the enquiry. Besides this all the witnesses examined during the enquiry proceeding are official and hear say witnesses the information or then evidence is based on second hand information. Besides this the security guard on duty at the pit top not during the relevant time has also not been examined during the enquiry proceeding and he was set free from the alleged incident of theft. There is no any direct evidence of involvement of the workman concerned in the alleged theft. The Enquiry Officer finding is based exclusively on the hear say evidence of the said security guard whose lapses in duty concerned the incident of theft. The management did not appear in the Court inspite of personal services of the notice so there is no defence case before the Court. It is also clear from the record and the documents filed by the union that no proper opportunity was given to the workman concerned to defend himself during the enquiry proceeding which amount to direct violation of the principle of natural justice:

In view of the above facts, circumstance, evidence and discussion made above I am satisfied to hold that the dismissal of Sri Gorelal Dusadh from the service is not legal and justified. And as such in the passed order of dismissal of the delinquent employee is hereby set aside and he is directed to be reinstated with the entering of service with 50% of the back wages which well serve the ends of justice. Accordingly it is hereby

ORDERED

that let an "ex-parte Award" be and the same is passed in favour of the workman concerned. Send the copies of the award to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

MD SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2008

का.अ. 926.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बेगुनिया प्रोजेक्ट कोलीरी के प्रबंधन के संबंध निचोषकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट (संदर्भ संख्या 81/1999) को प्रकटित करती है, जो केन्द्रीय सरकार को 4-4-2008 को प्राप्त हुआ था।

[सं. एल-22012/432/1998-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 4th April, 2008

S.O. 926.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 81/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial

Dispute between the employers in relation to the management of Begunia Project Colliery and their workman, which was received by the Central Government on 4-4-2008.

[No. L-22012/432/1998-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT ASANSOL

Present :

Sri Md. Sarfaraz Khan, Presiding Officer

REFERENCE NO: 81 OF 1999

Parties :

The Agent, Begunia Project Colliery,
Chanch Victoria Area, P.O. Barakar,
Distt. Burdwan.

Vrs.

The Area Working President, Janta
Mazdoor Sangh, Damagoria Colliery,
P.O. Kalyaneswari Distt. Burdwan.

REPRESENTATIVES:

For the management : Sri P.K. Das, Advocate

For the union (Workman) : Sri, S.K. Singh, Area
Working President.

Industry : Coal

State : West Bengal

Dated the 15-1-2008.

AWARD

In exercise of powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its letter No.L-22012/432/98-IR(CM-II) dated 7-7-1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Begunia Project in not protecting the wages of Sh. Sabir Ali w.e.f. 23-10-97 is justified? If not, to what relief is the workman concerned entitled?"

After having received the Order No. L-22012/432/98-IR(CM-II) dated 7-7-1999 of the above mentioned reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case

No. 41 of 1999 was registered on 22-7-1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Sri S.K. Singh, Area Working President of the Union and Sri P.K. Das Advocate appeared in the court to represent the management and the union respectively. The written statements were filed on behalf of both the parties concerned in support of their claims.

From the perusal of the record it transpires that the case was fixed for hearing of the argument of the parties concerned on 29-9-03 but none of the parties on the date fixed. The union left taking any step on its behalf since 29-9-03 to 12-9-07. Repeated several adjournment were given to the union to take suitable step but the union did not appear in the court. The reference is very old one. These all prevailing facts, circumstances of the case and the regular absence of the union go to show that the union has got no interest and does not want to proceed with the case further. In such circumstance it is not proper and advisable to keep record pending any more as no useful purpose is to be served. As such it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

MD. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 4 अप्रैल, 2008

सं.अ. 927.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधकों के समूह निरीक्षणों और उनके कर्मचारों के बीच, झुबुध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम आसमोल के पंचद (उद्देश संख्या 60/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-4-2008 को प्रेषित हुआ था।

[सं. सं. 22012/591/1999-आई अर (सीएम-II)]

अवध कुमार गौड़, डेल्टा अधिकारी

New Delhi, the 4th April, 2008

S.O. 927.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.60/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial

Dispute between the employers in relation to the management of Eastern Coalfields Limited and their workman, which was received by the Central Government on 4-4-2008.

[No. L-22012/591/1999-IR(CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present:

Sri Md. Sarfaraz Khan, Presiding Officer

REFERENCE NO. 60 OF 2000

Parties:

The Agent, Amritnagar Colliery of
M/s. BCL, Raniganj, Bardwan.

Vrs.

The Org. Secretary, Colliery
Mazdoor Sabha, Asansol.

REPRESENTATIVES:

For the management : Sri P. K. Goswami, Advocate

For the union (Workman) : Sri N. Ganguly, Advocate.

Industry : Coal

State : West Bengal

Dated the 2-1-2008.

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour with its letter No. 1-22012/591/99-IR(CM-II) dated 13-7-2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Amritnagar Colliery under BCL in denying minimum wages plus special Piece Rated Allowances in respect of Sh. Prem Kumar Singh and six others at the time of their conversion from Piece Rated Category to time Rated Category since 1993 is legal and justified? If not, to what relief the workmen are entitled?"

After having received the Order No. L-22012/591/99-IR(CM-II) dated 13-7-2000 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 60 of 2000 was registered on 1-8-2000/17-1-2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Sri P.K. Goswami, Advocate and Sri N. Ganguly, Advocate appeared in the court to represent the management and the union respectively. The written statements on behalf of both the parties concerned in support of their claims.

From the perusal of the record it transpires that the case was fixed for filing documents by the parties at their request on 9-6-2006 but none of the parties appeared and

filed their documents. It is further clear from the record that the union left taking any step on his behalf since 9-6-06 to 12-9-07. Repeated adjournments were given to the union to take suitable step by him but unfortunately neither the learned lawyer of the union nor the union itself or the workman concerned appeared in the court. The reference is old one and the union or the workman is not interested to proceed with the record further. In such prevailing facts and circumstances of the case it is not proper and advisable to keep the old reference pending any more as no useful purpose is to be served. As such it is hereby

ORDERED

that let a "No Dispute Award" be and the same is passed. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

MD. SARFARAZ KHAN, Presiding Officer